

## 12.1 INCOME TAX

Tax is the imposition of financial charges upon an individual or a company by the Government of India or their respective state or similar other functional equivalents in a state.

Income Tax refers to the tax levied by a government to finance its various operations for the welfare of people. Taxes are divided into two types,

- Direct Tax, such as Income Tax
- Indirect Tax, such as Service Tax, VAT which is now incorporated into Goods and Service Tax (GST).

### Direct Tax

Direct and indirect taxes include all the different types of taxes levied by the government. Direct taxes include the taxes that cannot be transferred or shifted to another person, for instance the income tax an individual pays directly to the government. In this case, the burden of the tax falls flatly on the individual who earns a taxable income and cannot shift the tax to others.

#### Direct Tax Are

- **Income Tax** : Levied on and paid by the same person according to tax brackets as defined by the income tax department.
- **Corporate Tax** : Paid by companies and corporations on their profits.
- **Wealth Tax** : Levied on the value of property that a person holds.
- **Estate Duty** : Paid by an individual in case of inheritance.
- **Gift Tax** : An individual receiving the taxable gift pays tax to the government.
- **Fringe Benefit Tax** : Paid by an employer that provides fringe benefits to employees, and is collected by the state government.

Indirect tax, as mentioned above, include those taxes where the liability to pay the tax lies on a person who then shifts the tax burden to another individual.

### Indirect Tax

Indirect taxes, on the other hand, are taxes which can be shifted to another person. An example would be the Value Added Tax (VAT) that is included in the bill of goods and services that you procure from others. The initial tax is levied on the manufacturer or service provider, who then shifts this tax burden to the consumers by charging higher prices for the commodity by including taxes in the final price.

Some types of indirect taxes are :

- **Excise Duty** : Payable by the manufacturer who shifts the tax burden to retailers and wholesalers.
- **Sales Tax** : Paid by a shopkeeper or retailer, who then shifts the tax burden to customers by charging sales tax on goods and services.
- **Custom Duty** : Import duties levied on goods from outside the country, ultimately paid for by consumers and retailers.
- **Entertainment Tax** : Liability on the cinema owners, who transfer the burden to cinemagoers.

- **Service Tax :** Charged on services rendered to consumers, such as food bill in a restaurant.
- **GST :** Therefore, the prime difference between direct tax and indirect tax is the ability of the taxpayer to shift the burden of tax to others. Direct taxes include tax varieties such as income tax, corporate tax, wealth tax, gift tax, expenditure tax etc. Some examples of indirect taxes are sales tax, excise duty, VAT, service tax, entertainment tax, custom duty etc Now GST.

### Types of Tax System

1. **Progressive Tax System :** In a progressive tax rate system, higher income individuals pay a higher proportion of tax with a rise in income. In this case, the marginal tax rate would be higher than the average tax rate. A progressive tax is cited as a method to reduce inequality in society. Most economies around the world use a progressive tax to assess taxes for individual income.
2. **Proportional Tax System :** In a proportional tax rate system, everyone pays the same proportion of his or her income as tax. The tax rate does not change with an increase or decrease in income. Here, the average tax rate is equal to the marginal tax rate. This system exists in Latvia and Russia, and is considered to be more 'fair' and easier to manage for everyone. Some states in the U.S. like Colorado, Utah and Michigan impose a proportional income tax for individuals.
3. **Regressive Tax System :** A regressive tax is a tax which results in a decrease in the tax rate as the amount subject to taxation increases. In a regressive tax rate system, the individuals with lower income pay a higher proportion of his or her income as tax. Here, the marginal tax rate is lower than the average tax rate. Any tax with a cap above which no taxes are paid are regressive taxes.

### Body of Income Tax Law

1. Any Income earned on account of any activities undertaken in the territorial water. Continental shelf or exclusive Economic zone of India is to be taxed in India.
2. According to Indian constitution schedule VII of union List-82 Income Tax Levy except agriculture income of cultural govt.

In Schedule VII of state List-46 Levy Tax of agriculture Income by State govt.

### 1. Income Tax Act 1961

- (i) Income Tax is one of the major source of Revenue for the govt. The Responsibility for collection of income tax Vests with the central govt.
- (ii) This Tax is liable and collected under income tax act 1961.
- (iii) The provisions of income tax are contained in the income tax act 1961 which extends of whole of India.
- (iv) In this act have 298 Sec. and 14 Schedule.
- (v) The Income Tax act contains provisions for determination of Taxable Income determination of Tax Liability. Procedure for assessment appeals, penalties and prosecutions.
- (vi) Every year a Budget is presented before the Parliament by Financial Minister. One of the Most components of the Budget is the Finance bill which dealers the Financial proposals of the central govt. For Next Financial year.
- (vii) When the financial bill is approved by both the house of parliament and perceive the assent of the president. It becomes the financial act. The Provisions of such financial act are there after incorporated in the income Tax.
- (viii) The Finance bill also Mentions the Rates the income Tax and other Taxes which are given in first schedule attached to finance bills.

First Schedule gives the rates of income tax in 3 parts :

- (i) **Parts** : It gives the Rates of deduction of Tax at source (TDS) from the Income earned in current Financial Year.
- (ii) **Parts** : It gives the Rates of Income Tax for various assesses for current Assessment Year.
- (iii) **Parts** : It gives the Rates for calculation Income Tax for deduction Tax from Income chargeable under the head 'Salaries' the some Rates are applicable for computation of Advance Tax to be Paid in current.
- (iv) **Parts** : Financial Year Provides for Rules for computation of Net agricultural income. The Total Income of the assessee is taxable of the following two rates.
  - (a) Normal Rate which are given in financial act every year.
  - (b) Special Rate which are given in the income Tax act i.e. :
    - Long Term Capital gain is taxable @ 10% / 20%
    - Short term capital gain referred to taxable @ 15%
    - Income from Lotteries, Cross road, Puzzle etc. @ 30%

## 2. Income Tax Act Rules 1962

Sec. 295 of the Income tax Act has given power to the central Board of Direct Taxes (CBDT) to make such Rules, Subject to the control of central govt.

These Rules are made applicable by Notification in the Gazette of India.

## 3. Circulars and Clarifications by CBDT

Circulars issued by the central Board of Direct Taxes (CBDT) under section 119 of the act Which is primarily meant to serve as guidelines to implement the provisions of Law.

## 4. Judicial Decisions

Judicial Pronouncements by supreme court, High Court National Tax Tribunal (to be established) and appellate ii are Tribunal which explain and Interpret the Law.

### Important Concept

#### Person Sec 2(31)

- (i) An Individual
- (ii) A Hindu Undivided Family (HUF)
- (iii) A Company
- (iv) A Firm
- (v) A Association of Person (AOP)
- (vi) A Body of Individuals (BOI)
- (vii) A Local Authority
- (viii) Every artificial Juridical Person

#### (i) An Individual :

- (a) A Natural Person Like as Human Being
- (b) A minor
- (c) A person of unsound mind.

**(ii) Hindu Undivided Family (HUF) :** Hindu joint family consists of all persons lineally descended from a common ancestor, and includes their wives and unmarried daughters. A Hindu coparcenary is a much narrower body than the joint family: it includes only those persons who acquire by birth an interest in the joint or coparcenary property, these being the sons, grandsons, and great-grandsons of the holder of the joint property for the time being. Since 2005 a daughter, who earlier was a member till unmarried has been labeled as a Coparcener, with same rights and obligations as that of a male.

**(iii) Partnership Family :** A Firm Shall have meaning assigned Indian partnership act. 1932 and that include a limited Liability Partnership as defined in Limited liability partnership act. 2008.

**(iv) Association of Persons (AOP) :** Association of Persons Means two or More persons who join for common purpose with a view to earn an income put do not constitute a partnership.

**(v) Body of Individuals (BOI) :** BOI Means a conglomeration of Individuals the carry on some activity with the objective of earning some Income.

It would consists only of Individuals. Companies or Firms cannot be members of a BOI.

**(vi) A Local Authority :**

- (a) Panchayat
- (b) Municipality
- (c) Municipal Committee and District Board
- (d) Cantonment Board

**(vii) Artificial Juridical Persons :** Which are not natural persons but are separate cities in the eyes law. Though they may not be sued directly in a court of law but they can be saved through persons managing them, such as God, University, Bar Council, Corporation, etc.

**Distinction Between AOP and BOI**

1. An AOP may consist of Non Individuals but BOI has to consist of Individuals only. Two or more Person like (Firm, Company, HUF, Individual etc) Join together It is called an AOP. But if only individuals join together then it is called a BOI.
2. An AOP implies a voluntary getting together for a common design or combined will to engage in an income producing activities charges a BOI may or may not have such common design or will.

**Assessment Fear Sec 2(9)**

Assessment year means the period of 12 month commencing on the first day of April every year. It is therefore the period from 1<sup>st</sup> April to 31<sup>st</sup> March.

**Previous Year Sec (3)**

It Means the financial year immediately preceding the assessment year for eg. : For the Assessment Year. 2018-19 and the previous year or Financial Year shall be period from 1 April 2017-18.

Previous year in case of a business or profession newly Setup : The Period beginning with the date of setting up of the business or profession and ending with the said financial year.

**Previous Year Rule and It's Exceptions**

In the following circumstances the income is taxed in the same year in which it is earned. Therefore the assessment year and previous year will be the same.

1. Non-Resident engaged in shipping business (Sec. 172)
2. Assessment of Persons Leaving India (Sec. 174)
3. Assessment of AOP/BOI/ Artificial Judicial Person formed for a Particular event or purpose (Sec. 174 A)
4. Persons Likely to transfer Property to avoid Tax (Sec. 175)
5. Discontinued Business (Sec. 176)

**Assesses [Sec. 2(7)]**

Assesses Means a Person by whom any Tax or any other sum of money is Payable under this act.

- (a) Every Person in Respect of whom any processing under the Income Tax act has been taken for assessment of his income / Loss / Fringe Benefits / Refund or for the assessment of Income / Loss of any other Person in Respect of which he is assessable.

- (b) Every Person who is deemed to be an assessee under this act for instance Legal Representative of a deceased Person.
- (c) Every Person who is deemed to be an assessee in default under any Provision of this act for Instance 41s 201(1) any person who does not TDS, or after deducting fails to pay such Tax is deemed to be an assessee in default.

### Income Sec 2(24)

Income Means a Monetary Return Coming with some sort of Regularity whether or not from definite or identifiable source.

Some important principle which explain the importance of income for income Tax Purpose are given below.

- (i) **Regularity of Income :** Income arise periodical monetary return coming in with some sort of regularity or expected regularity from definition source.
- (ii) **Form of Income :** The Income received by the assessee need not be in the shape of cash only. It May also be some other property or Right which has monetary value.
- (iii) **Tainted/Illegal Income :** For Purpose of Income Tax these is no difference between legal and tainted income. Even illegal income is taxed just like any Legal Income.
- (iv) **Disputed Income :** Any dispute Regarding the title of income cannot hold up the assessment of the income in the lands of receipts .
- (v) **Contingent Income :** A contingent income is not income will the contingency has happened.
- (vi) **Basis of Income :** Income can be taxed on Receipt basis or on accrual basis.  
Method of accounting is relevant for
  - (a) Profits any gains of Business and professions
  - (b) Income from other sources.Chargeable on due or Receipt basis whichever is earlier.
  - (a) **Salaries :** Chargeable on accrual basis
  - (b) **Income from House Property :** Chargeable in the year in which the capital assets is transferred.
  - (c) **Capital Gains.**
- (vii) **Personal Gifts :** Gifts received by a person on occasions like Birthday, marriage festivals etc. Should not ordinary be the income of assessee cannot be taxed in the hands of recipient as his income.  
However gift of money or gift of immovable property or certain Movable property secured by HUF or by individual from unrelated person shall be chargeable to income tax if the aggregate sum of money exceeds 50,000 Rs.
- (viii) **Composite Income :** Income tax is a composite tax on all incomes received by or arising to a tax payer during a year, these for the will be imposed on the aggregate of all incomes carried / received by the assessee every the year.
- (ix) **Pin Money :** Pin Money Received by a women for her dress or private expenditure as also small saving effected by house wife out of money given to her by her husband, for the expenses, of kitchen should not be income in the eyes of Law.
- (x) **Lump Sum Receipt :** If a Receipts is an income then whether it is received in Lump Sum or in installments would not affect its taxability.
- (xi) **Income Most Come From Out-Side :** In case of mutual activities where some people contribute to the common fund and are suited to participate in the pond and surplus arise which is distributed of fund such surplus cannot be called income.

### Gross Total Income (Sec 14)

Aggregate of Income Computed under the below 5 heads after applying clubbing provisions and making adjustment of set off and carry forward of losses is known as Gross total income.

- (a) Salaries
- (b) Income from House Property
- (c) Profits and gains of Business or Profession
- (d) Capital Gain
- (e) Income from other sources

### Total Income

The Total income of an assessee is computed by deducting from the gross total income all deductions (80C to 80U) permissible under chapter VI A of Income Tax Act.

### Computation of Total Income and Tax

(1) Income From Salaries (Sec 15-17)		
(2) Income From House Property (Sec 25-27)		
(3) Profits and gains of business or Profession (Sec 28-44 DB)		
(4) Capital Gains (Sec 45-55 A)		
(5) Income From other Sources (Sec 56-59)		
Total Sources of Income		× × ×
Add :- Income of other Persons included in assessee's		
Total income (Deemed incomes to be aggregated with appropriate heads of income) (Sec 60-90 D)		
Less :- Adjustment on account of set off of carry forward of Losses (Sec 70-80)		
GTI		× × ×
Less Deductions G/S 80C to 80U		× × ×
Total Income		× × ×
Computing of Tax Liability		
Tax on Net Income	× × ×	
Add :- Surcharge if Applicable	× × ×	
Tax and Surcharge	× × ×	
Add : Education Cess (a) 2% + SHEC (a) %%	× × ×	
Tax and Surcharge + adution cess	× × ×	
Less Relief u/s 86.89, 90, and 91	× × ×	
Tax	× × ×	
Less :		
Pre-Paid Taxe	× × ×	
Tax Paid on Self assessment	× × ×	
TDS	× × ×	
Tax Paid in advance	× × ×	× × ×
Tax liability (Rounded off to nearest-10)		× × ×
Add : Interest u/s 234A, 234B, and 234C		× × ×
Total amount Papable		× × ×
(Rounded off to nearest-10)		× × ×

### Income Tax Slab Rate (Assessment Year 2018-19 and Financial Year 2017-18)

#### Individual/ AOP/ BOI/ HUF

#### Income Tax Slab for Individuals less than 60 years for F.Y. 2017-18 (For Male or Female)

Income	Tax Rate
Up to 2,50,000	NIL
From 2,50,001 - 5,00,000	5%
From 5,00,001-10,00,000	20 %
Above 10,00,000	30%

Less : Rebate under Section 87A

Add : Surcharge and EC and SHEC

**Income Tax Slab for Individuals more than or equal to 60 years but less than 80 years known as Senior Citizens for F.Y. 2017-18 (Both Male and Female)**

Income	Tax Rate
Up to 3,00,000	NIL
From 3,00,001- 5,00,000	5%
From 5,00,001-10,00,000	20 %
Above 10,00,000	30%

**Less :** Rebate under Section 87A

**Add :** Surcharge and EC and SHEC

Income Tax Slab for Individuals more than or equal to 80 years known as Super Senior Citizens For F.Y. 2017-18 (Both Male and Female)

Income	Tax Rate
Up to 5,00,000	NIL
From 5,00,001- 10,00,000	20 %
Above 10,00,000	30%

**Add :** Surcharge and EC and SHEC

#### Income Tax Slabs For Non-Residents

Income	Tax Rate
Up to 2,50,000	NIL
From 2,50,001- 5,00,000	5%
From 5,00,001-10,00,000	20 %
Above 10,00,000	30%

**Please Note :** Rebate u/s 87A and Age-wise slab rate as discussed above in case of resident individual are not available to Non-Residents.

#### Income Tax Rate for Firms and LLP

A firm /LLP is taxable for the F.Y. 2017-18 (A.Y. 2018-19). @flat rate of 30 percent

**Add :** Surcharge and EC and SHEC

#### Income Tax Rate for Indian Company

For F.Y.2017-18 (A.Y. 2018-19) the income tax slab for Indian Company

Total Turnover or Gross Receipts (Rs.)	Rate of Income Tax
Amount does exceed Rs.50 crore, in the previous year 2015-16	25%
Amount exceeds Rs.50 crore	30%

**Add :** Surcharge and EC and SHEC

#### Income Tax Rate for Foreign Company

A foreign company is taxable for the F.Y. 2017-18 (A.Y. 2018-19). @flat rate of 40 percent

**Add :** Surcharge and EC and SHEC

#### Income Tax Rate for Co-operative Societies

For F.Y.2017-18 (A.Y. 2018-19) the income tax slab for co-operative society

Income	Tax Rate
Up to 10,000	10%
From 10,001-20,000	20 %
Above 20,000	30%

**Add :** Surcharge and EC and SHEC

### Income Tax Rate for Local Authorities

Local authorities are taxable for the F.Y. 2017-18 (A.Y. 2018-19) @ of 30 percent

**Add :** Surcharge and EC and SHEC

### Surcharge

The amount of income-tax shall be increased by a surcharge at the rate specified in the table, where total income exceeds the specified amount:

Surcharge Rates for	0-Rs.50 lakh	Rs.50 lakh - Rs.1 crore	Rs.1 crore - Rs.10 crore	Above Rs.10 crore
Individual(Men, Female, NRI) /HUF /AOP /BOI /other Artificial Juridical person	Nil	10%	15%	15%
Firm/Co-Operative Society/local authority	Nil	Nil	12%	12%
Domestic Company	Nil	Nil	7%	12%
Foreign Company	Nil	Nil	2%	5%

### EC and SHEC

- Education Cess (EC)** : The amount of income-tax and the applicable surcharge, shall be further increased by education cess calculated at 2 percent of income tax and surcharge.
- Secondary and Higher Education Cess(SHEC)** : The amount of income-tax and the applicable surcharge, shall be further increased by secondary and higher education cess calculated at 1 percent of income tax and surcharge.
- Rebate under Section 87A** : Section 87A of the Act states that if a resident individual's total income does not exceed Rs. 3.5 lakhs then the individual will get benefit of rebate. The amount of rebate shall be 100% of income-tax or Rs. 2,500, whichever is less. Prior to the union budget 2017, it was on the taxable income up to INR 5 lakh and the benefit was of Rs. 5000/-.

### Residential Status

The three different Residential status applicable to various assessee are

- (1) Resident (R)
- (2) Non ordinary Resident (NOR)
- (3) Non Resident (NR)

The Residential Status of Individual will determined as under :

Assessee	Basic Condition	Additional Condition
Resident	Least one of the basic condition	Not Required
NOR	At least one of the Basic Condition	Other one or both satisfy or Additional Conditions
NR	Should not satisfy of Basic Condition	Not Required

### Basic Conditions Sec 6(1)

- (a) He must stay in India for a Period of 182 days or more during the previous year  
OR
- (b) He is stay in India for 60 days or more during the previous year and 365 days or more during the 4 preceding the P.Y.

**Note :**

- (1) Under the following circumstance the period of 60 days extended to 182 days.
  - (a) India citizen who leaves India during P.Y. for the purpose of employment outside India.
  - (b) Indian cities who leaves India during the P.Y. as a member of crew member of an Indian ship.
  - (c) An Indian citizen or a person of Indian origin (who is abroad) who comes to India on visit during the previous Year.
- (2) A person is deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in undivided India. A Hindu undivided family (like an individual) is either resident in India or non-resident in India.

**Additional Conditions 4 is 6(6)**

- (a) He must to be a non-Residual in India in 2 out of 10 previous year preceding that year.  
AND
- (b) He must be in India during 7 preceding previous year for an aggregate period of 730 days or more.

**Important Explanations**

- Relevant Previous year Means the Previous year for which the residential status is being determined.
- In previous period of stay in India. It is not necessary that the stay should be for continuous preside.
- It is also not necessary that the stay should be only at one place.
- In Previous the period of 182 days day of Individual stay in India and the day leave India should both be treated as stay in India.
- India includes its territorial waters, Seabed, and Subsoil underlying such waters, Continental shelf, exclusive economic some or any maritime zone and air space.

**Residential Status of Hindu Undivided Family (HUF)**

- (a) **Residual (HUF)** : If control and management of the affairs of HUF is situated wholly or partly in India then HUF is said residual in India.
- (b) **Non Residual (HUF)** : If control and management situated wholly outside India.
- (c) **Non-Ordinary Resident** : A Residual HUF is said to be 'not ordinary residual in India it karta or manager satisfy any one or both following additional conditions.
  - (a) He must be a non- residual in India in 2 out of 10 previous year preceding that year  
AND
  - (b) He must be in India during 7 preceding previous year for an aggregate period 730 days or more.

**Note :** Control and management is situated at place where the head the seat and directing power are situated.

**Residential Status of Company Sec 6(3)****Residual Indian Company**

- (a) It is Indian Company  
or
- (b) During the relevant previous year the control and management is situated wholly in India.

Non Residual Indian Company

- (a) It is not an Indian Company  
and
- (b) The control and management is situated wholly or partially outside India.

#### **Residential Status of a Firm or and AOP or other Person**

- (a) Resident: If control and management is situated wholly and partly in India.
- (b) Non Resident : If control and management is not situated wholly and partly in India.

**Note :** A firm or other person cannot be ordinarily resident.

#### **Impact of Residential Status on Tax Incidence**

		R	Note	NR
1	Income received in India by him or on his behalf (whether accrued in India or outside India)	✓	✓	✓
2	Income Deemed to received in India by him or on him behalf (alther accrued in India or outside) India)	✓	✓	✓
3	Income accrued or arising India (whether received in India or outside India)	✓	✓	✓
4	Income deemed accruing or arising in India (whether received in India or outside India)	✓	✓	✓
5	Income which accrued or arise outside India (other than)	✓	xx	x
6	Income accrue or arise outside India and received outside India from a Business controlled from India	✓	✓	x
7	Income which accrue or arise outside India and received outside India	x	x	x

#### **Note :**

- (1) In case of person is not ordinary resident in India the income, which accrued and arise outside India shall from part of total by come in India only if it is derived from a business controlled or profession set up in India.
- (2) Foreign Income is not taxable if income accruing or arising outside India shall not be deemed to be received in India by reason only of fact it is taken into account in a B/S prepared in India.
- (3) Income taxed on accrual basis is not taxable again on receipt basis.

#### **Income Deemed to be Accrued/excise in India (Sec 9)**

1. Income through or from any business connection in India or property or assets or sources of Income in India or through transfer of capital assets situated in India.
2. Income from salaries if it is received in India.
3. Salary payable by the govt. to an Indian Citizen / National for services rendered outside India in following conditions.
  - (a) Income should be chargeable under the head of salaries.
  - (b) The payer should be govt. of India.
  - (c) The Recipient should be an Indian citizen whether Resident or Non-Resident.
  - (d) The service should be outside India.

While Salaries of Indian citizen shall be deemed to accrue and arise in India but all allowances or perquisites paid outside India by govt. will be exempt.

4. Income from any property, assets or source of income situated in India (Movable or Immovable, Tangible or Intangible)

5. Income from the transfer of any asset situated in India would be taxable.
6. Interest Payable by
  - (i) govt.
  - (ii) A Person who is a resident in India.  
If interest payable in respect of money borrow and used for purpose of business or profession carried on outside India are exempted.
  - (iii) A person who is a non-resident in India provided Interest in respect of Money borrowed and used for a business or profession carried on India.
7. Royalty / fees for technical service payable by
  1. Govt.
  2. A Person who is resident in India expect payable in respect of a business carried on outside India.
  3. A person who is non- resident provided royalty/fee payable for business of profession carried on in India.

### Income Received or Deemed to be Received in India

1. **Received in India :** The Receipt of Income refers to the first occasion when the recipient gets the money under his own control.
2. **Income Deemed to be Received in India**
  - (i) Contribution made by employer to the recognized provident fund in excess 12% of salary of employer.
  - (ii) Interest credited to the RPF of employee which is excess 9.5% pa.
  - (iii) Transfer balance from URPF to RPF
  - (iv) The contribution Made by control govt. or any other employer in the previous year to an account of an employee under pension scheme u/s 80 u/s.

### Income From Salaries Heads

#### Income Order the Head "Salaries" (Sec 15 to 17)

#### Importance Concepts of The Computation of Income under The Head

##### 1. Employer and Employee Relationship

- (a) Employer and employee Relationship is 'Contract of Service' (where employee is bound to work for his employer) as against "Contract for Service" (where a person offers his service for charges)
- (b) Employer Employee relationship is similar to master servant relationship where in master (Employer) has a control over the work and working machinery of the servant (employee) instance where employer employee relationship exists/does not exist.
  - (i) Paper/Setters Examiners
  - (ii) MLA/MPS
  - (iii) Director of Company
  - (iv) Judger
  - (v) Advocate General

##### 2. Salary More than One Source

##### 3. Salary Due Govt. Employee OR. Private Company

Since Salary is taxed on "due" or 'Receipt' Basis whichever is earlier but if there are any arrears of salary which have not been taxed in the past such arrears will be taxed in the year which are paid or allowed to the employee.

Generally Salary become due on the Last day of each month however in case of govt. employees salary due on 1st day of Next month in case govt. employee salary from march to Feb. Shall be taxable.

#### 4. Surrender of Salary

Exception from taxation act 1961 Sec. 2 will be excluding while imputing the taxable income.

#### 5. Forgoing of Salary

Salary is taxable on due basis even if it is not received hence if an employee forgoes his salary after it has accrued to him then such subsequent conflicts does not make it exempt from tax Liability.

#### 6. Place of Accrual of Salary Income

Income under the head Salary is deemed to accrue or arise in India if the same is payable for service rendered in India. Further Paid by govt. to an India citizen for services rendered outside India is also deemed to accrue or arise in India.

#### 7. Salary From UNO

Exempt salary pension received from UNO is example from tax u/s 2 of writhed Nations act. 1947.

#### 8. Tax Free Salary

When the employee receive Tax free salary it normally means that the employees him-self pays the tax which is due on the salary of such employee.

Any deduction made by the employee from employee's salary like PF, Seduction, TDS, etc. shall also be included in the salary.

#### Various Incomes to be Included in Gross

##### 1. Wages

##### 2. Annuity

When annuity is payable by a Present employer it is taxable as salary. It may be Paid by employer voluntarily or an account of contractual agreement.

If it is received from employees they it is taxed as profits in lieu of salary.

##### 3. Retirement Benefit

###### (a) Pension

###### (b) Gratuity

###### (c) Leave Encasement

###### (d) Retrenchment Compensation

###### (e) Compensation received on voluntary retirement

##### 4. Treatment of Bonus

• Bonus is taxable on receipt bonus. It included in gross salary.

• If Bonus Received in arrears the assessee can claim relief u/s 89.

##### 5. Fees and Commission

When it is Paid by employer to employee and fee or commission is fully taxable.

##### 6. Salary in lieu of Notice Period

This is taxable in the previous years in which it is received.

##### 7. Overtime Payment

It is taxable in hands of salary.

##### 8. Profits in Lieu of Salary (u/s 17(3))

Profits in lieu of salary means receipt of an amount that would be gain or advantage in addition to salary though not Named as salary.

Profits in lieu of salary Includes.

- (1) Any compensation due or Received from employer or former employer with termination of his employment.
- (2) (a) Any payment due to receive from an recognised provided fund or other fund  
(b) Any sum (Including bonus) received under a key man Insurance Policy.  
(c) Any other payment due or received from an employee or a former employer.

### Basic Charges of Salary (Sec 15)

- 1. Any Salary due from an employees or a former employer to an assessee in Previous year whether paid or Not in Previous year.
- 2. Any Salary Paid or allowed to the employee during the previous year by or on behalf of an employer or former employer. Such amount are not due to him during the accounting year.

### Salary 17(1)

Salary Includes

- (a) Wages
- (b) Any Annuity or Pension
- (c) Any Gratuity
- (d) Any Advance Salary
- (e) Any fees, commissions per
- (f) Employers contribution of RPF in excess of 12% of salary and Interested Credited 9.5% (Salary's Basic Pay + D.A.) + Commission on turnover
- (g) Any payment received by an employee in respect of any period of leave not availed by him.
- (h) In case of transfer from URPF to Newly RPF
- (i) Contribution made by central govt. or any other employees.

### Allowances

Allowance is a fixed monetary amount. Paid by the employees to the employee for meeting some particular Expenses whether personal or for the Performance of his duties.

#### (I) Fully Taxable Allowance

- (a) Dearness allowance (D.A)
- (b) City Compensatory Allowance
- (c) Medical Allowance
- (d) Tiffin Allowance
- (e) Servant Allowance
- (f) Project Allowance
- (g) Service time Allowance
- (h) Family Allowance
- (i) Non Practicing Allowance

#### (II) Allowance Exempt to The Extent Actually Expended for The Official Purposes (Up to Expenses)

- (a) Travelling Allowance  
Cost of Travel on Tour

or

On transfer (Including any sum paid in connection with transfer packing transpiration)

- (b) Conveyance Allowance free conveyance allowance provide by employees is not exempt.
- (c) Uniform Allowance  
Expenditure incurred on purchase or Maintenance of uniform or scaring during performance duties of any official.
- (d) Daily Allowance
- (e) Research Allowance
- (f) Helper Allowance

**(III) Other Allowance Exempt to the Extent Some Limit**

- 1. Children Education Allowance  
Actual Amount Received  
or  
100 Rs. Per Child Per Month  
Up to Maximum 2 Children
- 2. Hostel Expenses Allowance  
300 Rs Per Child Per Month up to 2 Children  
or  
Actual Amount Received
- 3. Tribal Area Allowance  
Actual Amount Received  
or  
200 Rs. Per Month
- 4. Special area Compensatory Allowance (Hilly Area)  
Exemption 300 to 7000 per Month
- 5. Borders area, Remote area Allowance, Distributed area Allowance  
Exemption from 200 p.m. to 1300 per Month
- 6. Compensatory Field area Allowance  
up to 2600 Per Month .
- 7. Compensatory Modified Field Area Allowance  
up to 1000 Rs. Per Month
- 8. Counter Insurgency Allowance Granted to Members of Armed Forces  
up to 3900 per Month
- 9. High Attitude (uncongenial climate allowance)  
9000 ft. to 15000 ft. = 1060 per month  
Above 15000 f.t = 1600 per Month
- 10. Special Compensatory highly active field area allowance granted to member of armed forces  
up to 4200 p.m.
- 11. Island (duty) Allowance  
Given to the member of the armed forces in the Andaman Nicobar and Lakshadweep exempt up to 3250 p.m.
- 12. Transport Allowance  
1600 Rs per Month  
Blind, Handicapped with disability exampled 3200 Rs. per Month.

13. Underground Allowance  
An employee who is working in uncongenial unnatural Climate in under- ground mines exempt up to 800 Rs. p.m.
14. Allowance granted to the employees of transport system  
70% of such allowance  
or [whichever is lower]  
10000 per month
15. Allowance to retired Chairman / Members of UPSC  
14,000 per month and value of residential telephone free of cost 1500 R.s .per Month

### Entertainment Allowance

- (a) Non govt. employees shall not eligible for any deduction of Entertainment allowance
- (b) Govt. employees (deduction from gross salary)
  - (i) Actual Entrainment allowance Received
  - (ii) 20% of his salary
  - (iii) 5000

Salary Basic Pay + D.A. (if in terms of service)

### Allowance Which are Exempt in Cases of Certain Persons

- (i) Allowances to a citizen of India who is govt. employee Rendering services outside India.
- (ii) Allowances to High court u/s 22 A(2) of High court judges.
- (iii) Sumptuary Allowance given to High court and supreme crust judges.
- (iv) Allowances received by an employee of united Nations organization (UNO) from his Employees.

### House Rent Allowance [Sec 10(13A)]

- (i) Actual HRA Received
- (ii) Rent Paid - 10% of Salary
- (iii) 40% or 50% of Salary (M, K, C, D)

**Note :** (a) Salary = Basis Pay + D.A (If in service ...) % of fixed or commission on Turnover.  
(b) 50% of salary should be situated on Mumbai, Kolkata, Delhi, Chennai.

### Deduction Computing Income Under Head Salaries Sec (16)

- (i) Experiment Allowance
- (ii) Employment Tax

Any sum Paid by assessed on account of tax on unemployment can -not exceed Rs 2500 p.a.

### Perquisites

Perquisites Means any benefit or an amenity provided to the employee by the employees, directly, or indirectly whether in cash, or, in hands in addition to salary and wages.

### Taxability of Perquisites

- (a) Perquisites which are taxable in hands of all categories of employees.
- (b) Perquisites which are taxable only employee belongs to specified group i.e. it is a specified employee.
- (c) Specified securing or sweet equity share allotted or transferred by the employee to the assessee
- (d) Contribution by the employees to the approved superannuation fund in respect of assessee to the extent it exceeds 1,50,000.
- (e) Tax free perquisites.

### Perquisites are Taxable in Hands of All Categories of Employee

1. Furnished or Furnished Rent free accommodation provided by employer to the employee.
2. Any concession in the matter of Rent in Respect of the accommodation provided or granted by the employer to the employee.
3. Any Sum payable by the employer whether directly or through fund (other than RPF Approved Superannuation Fund) to effect assurance on life or contract for an annuity.
4. The value of any other fringe benefit or annuity.

### Specified Employees

1. If a watchman/sweeper is engaged and reimbursed paid by the employer is a perquisite for all employees because it is duties of the employee to day the salary of his watchman/sweeper.
2. If watchman/sweeper is engaged by the employees and facility of his services is provided by employees and facility of his service provided for specified employees it shall be taxable perquisite for specific employees.
3. Any business/amenity in the form of a facility (other than Rent free accommodation, Concession in Rent for fringe benefit, or amenities) Provided by employees which is not tax free taxable only in hands of specified employees. These are
  - (1) Service of a sweeper, grounder, watchman or personal attended.
  - (2) Free or concessional case of gas electric, energy and water for household Consumption.
  - (3) Free or concessional educational Facilities
  - (4) Use of Motor Car
  - (5) Personal or Private journey provided free of cost or at concessional rate to an employee or member of his household.
  - (6) The value of any other benefit or service right or privilege provided by employee.

### Specified Employee

1. An employee who is the director of company.
2. Any employee having a substantial interest.  
(Who is beneficial owner of equity share carrying 20% or more or voting rights of company)
3. An Employees whose income chargeable under Head Salaries excess 50,000 is a specified employed.  
(Exclusive of the value of all benefits or amenities not provided by way of Monetary payment)

### 1. Rent Free Accommodation

Accommodation includes a house, flat, farm house or Rest house these off or accommodation in a hotel, Motel, Service apartment guest house, Carnal, Mobile home, Ship or other floating structure.

#### (A) Central/State Govt. Employees

License free determined by union or state govt.

#### (B) Other Employee

1. Where the accommodation is unfurnished

Nature of Accommodation	Population not Exceeding 10 Lakh	Population Exceeding 10 Lakh but not Exceeding 25 Lakh	Population Exceeding 25 Lakh
(a) Accommodation owned by employer	7.5 Salary	10% of Salary	15% of Salary
(b) Accommodation taken or Lease of tent by employer	Actual amount of Lease of Rent Paid or 15% Salary (whichever is lower)	Actual amount of Lease of Rent Paid or 15% Salary (whichever is lower)	Actual amount of Lease of Rent Paid or 15% Salary (whichever is lower)

### (C) Accommodation in Hotel by Any Employees

(Govt. or other)

(i) 24% of Salary paid

or

Actual Charge paid / payable to such hotel (whichever is less)

Salary = Basic Pay + D.A. (If in terms) + Bonus + Commission + Fees + All taxable allowance + All Monetary payment

#### Note :

(1) Free official residence provided to a judge of a high court or to a judge of supreme court is except from Tax.

(2) Value of furnished accommodation

Value of unfurnished accommodation .....

+ 10% of cost of furniture .....

+ Actual hire charge paid by employer .....

- Rent Recovered by employee .....

Value of furnished accommodation .....

Furniture includes T.V. Ratio, refrigerators, air conditioning plant and equipment.

(3) Exempt Perquisites

(a) Hotel accommodation provided to employee for a period not exceeding 15 days on his transfer from one place to another.

(b) Accommodation provided to employee working at mining site or an on shore oil exploration site, or project execution site which

(i) Being of temporary nature and having plinth area not exceeding 800 sq. feet is located not less than 8 km from Local Municipality or cantonment board.

(ii) It is Located in a remote area.

(Remote area at least 40 km away from town or population not exceeding 20,000)

(4) Double accommodation on transfer

Where transfer from one place to another employee is provided with accommodation at new place of posting.

#### Value of Perquisite are

Lower value only one such accommodation for a period not exceeding 90 days and thereafter the value of Perquisite shall be charged for both such accommodation.

### Prescribed Fringe Benefit Taxable for All Employees

The following benefits provide by the employee or any other person on his behalf to the employee or any member.

#### (1) Interest Free or Concessional Loans 3(7)(1)

Max outstanding Monthly balance P.a. (By SBI For Similar Purpose)

Less Interest if any actually Paid by him or any Such member of his house hold

Max out Standing Monthly balance Means aggregate outstanding balance for each Loan as on Last day of each Month.

#### Exemption

(a) Where the amount on of Loan on petty not exceeding 20,000

(b) Such Loans are made available for Medical treatment of specified disease in..... 3A

#### No. Exemption

In case of Loan provided for medical treatment in respect of diseases specified in rule 3A for exemption shall not apply to so much of the Loan as has been reimbursed to the employee under any medical insurance scheme.

#### (2) Travelling, Tourist, Accommodation and Any Other Expenses Paid by The Employee for Any Holiday Other than LTC

Valued as the sum equal to amount of the expenditure incurred by employees in that behalf

**Note :** (1) Valuation when facility is maintained by employee and not available uniform to all employees :

Value of benefit = value at which such facility are offered by the agencies to the public.

(2) If employees is an official tour and expenses on Incurred for any member of his house hold accompanying him = amount of expenditure incurred fringe benefit

(3) Where any official tour is extended as vacation = the value will limited Exp. incurred by employees

**Note :** If any paid or recovered from the employee for such benefit shall be reduced by amount.

#### (3) Free Food and Non-Alcoholic Beverages Provided by Employer

(a) During working hours at office of business premises

Exampled up to 50 Rs. Per Meal.

(b) Remote area and one offshore installation – Nil (No Tax)

(c) Tea or snacks provided during working hours – Nil (No Tax)

#### (4) Value of Gifts Voucher or Token Rule 3(7)(IV)

**The Gift in Kind up to** Exempted amount up to 5000 Rs and Gift in cash or convertible in to money (like Gift, Cheques) are fully Exempted.

#### (5) Expenses on Credit Cards Rule 3(7)(V)

Amount of such Exp. Charged to Credit Card or Reimbursed by employer      xx

(–) Amount Paid or Recovered from employer      xx

value of Requisites      xx

Exempted: perquisites is exempt if expenses are incurred wholly and Exclusively for official purpose.

#### (6) Club Membership and Expenses Incurred in a Club Rule

Actual Expenditure paid or reimbursed by employees      xx

(Including amount of annual or periodical fee)      xx

(–) Amount Paid Recovered from employee value of benefit      xx

### **Exemption**

- Where the employer has obtained corporate membership of the club and facility is engaged by employee or hold member the value of Perquisite shall not include initial fee, paid.
- These shall be no perquisite value for use health club, sports and similar facility.
- If expenditure is incurred wholly × Exclusively for Business purpose.

### **(7) Use or Moveable Assets Rule 3(7)(VII)**

(a) Use of Laptop and Computer – Nil

(b) Moveable assets other than –

- (i) Laptop and Computer                            10% of actual Cost or
- (ii) Assets Already specified in Rules      Rent Paid

### **(8) Transport of Any Other Benefit Rule 3(7)(ix) Provided to Employee**

Cost of same to the employer under an arms-length transaction	xx
(-) employee's Contribution	<u>xx</u>
	<u><u>xxx</u></u>

Expenses on Telephone, Mobile, Actually incurred on behalf of the employee by employee shall be exempted.

### **Transfer of Movable Assets by Employers to Him Employee :**

Computer, Laptop, electronic item -----	Motor Car -----
Less :- Dep. @ 60 % -----	Less :- Dep. @ 20 % -----
Other Movable Assets -----	
Less :- Dep. @ 10 % -----	

### **(9) Taxable Perquisites in Hands of Specified Employee**

#### **1. Valuation of Motor Car/Other Vehicle**

- (1) Use of conveyance wholly or excluding for official purpose is not a Perquisite
- (2) Where one or More Motor cars are owned or hired by employee and employee or any member of house hold are allowed the use of such motor car or all or any such motor car.

**(Wholly or partly in the Performance of his duties) the value of perquisites – Engine Capacity not exceed 1.6 CC – 2700 (1800 + 900) pm**

**Engine Capacity Exceeds 1.6 CC – 3300 p.m. (2400 + 900)**

Such Motor car used partly duties or partly for personal use then perquisite value -

Engine Capacity not exceeds 1.6 Ltr.      Actual Exp. + Remuneration by employee

Engine Capacity Exceeds 1.6 Ltr.

- (3) Specific Documents to be Maintained are

- (i) Employee Maintained complete details of Journey for official purpose (Include Date of Journey, Destination, Mileage, and around of expenditure)
- (ii) Employee gives certificate that expenditure will incurred wholly on partly for performance of m's official duty.

#### **2. Case Electricity and Water Supply for Household Consumption**

In case supplied from own sources by employees = cost of production penalty

In case supplied from outside agencies = Actual Expenditure incurred by employee

Less : Amount Recovered From Employee

### 3. Sweeper Gardner Watchman or Personal Attend

Salary Paid or repayable by employee	xx
(-) amount recovered from employee	<u>xx</u>
	<u>xxx</u>

### 4. Provision of Free or Concessional Educational Facility for Any Member of Employees Household

- (a) Employer incurred cost of education  
= Actual Expenditure incurred by employer
- (b) Educational institution is owned and maintained by employer  
= Cost of such education in similar Institution in Near the Locality 1000 pm/child.
- (c) Free Educational facility is provided in any other Institution by reason of his employment with that employer = perquisite is exempted if free educational facility provided and cost of education does not exceeds 1000 p.m./child otherwise Institution it is fully taxable.

### 5. Free of Concessional Journey given to Transport Employees and Their Family Members

Provision of transport to the employees or to a member of his household by the employer who is engaged in the carriage of passenger of goods.

- (a) In the case of employee of an airlines or Railways – Nil
- (b) In the case of any other employee
  - (i) If provide free of cost  
value at which such beneficial or amenity offered by such employer to the public
  - (ii) If provide concessional Rate  
(-) recovered from employees

xx  
xx  
xx  
xxx

### 6. Value of any Specific Security or Sweat Equity Share

The value of any specified security or sweat equity share allotted transfer directly or indirectly paid by employer free of cost or concessional Rate shall be taxable in hands of assessee.

Perquisite value of fair Market value	xx
(-) reduced amount actually paid by assessee	<u>xx</u>
	<u>xxx</u>

### 7. Contribution to an approved Superannuation Fund

Up to 1,50,000 exempted amount.

### 8. Treatment of Medical Facility

1. Treatment in employers hospital = exempted (Tax Free)
2. Treatment in govt. hospital or treatment of prescribed disease in approved hospital  
Reimbursement of expenditure insured on medical treatment of employee of his family member.
  - (a) In any hospital of govt. / Local authority or any other hospital approved by govt.  
or
  - (b) In respect of diseases prescribed in rule 3A exempt (Tax Free)
3. Payment of health Insurance premium  
Health Insurance Premium Paid by employer approved by Central govt. or IRDA – Exempt (Tax Free)
4. Reimbursement of health Insurance premium  
Reimbursement of expenditure incurred by employee on medical treatment of him or family member-- Exempt 80(D)

5. Other Medical Exp.  
Exempt up to 15000
6. Medical Treatment abroad
  - (a) Medical treatment of employee or his family member outside India or step abroad of such employee or family member and one attendant who accompanies with patient such treatment except to the extent permitted by RBI
  - (b) In Travel of such employee or family member with one attendant who with patient such treatment outside India.

Exempt (If GTI of such employee before Including this expenditure does not exceed 2 Lakh)

**Note :** 1. Family Means :- (i) Spouse and children of that Individual (ii) Parents, brother, and sister dependent.

2. Hospital Means dispensary or a clinic or a Nursing Home,

## 9. Leave Travel Concession or Assistance (LTC/LTA)

1. An exemption is available to an employee in respect of value LTA/LTC due or Received from his employer or former employer for himself and his family.
  - (a) On leave to any place in India
  - (b) To any place in India after retirement from service or after the termination of his service.
2. **Amount of Exemption**
  - Journey by air : Economy fare of National carriers by shortest Route.
  - In case place are connected by rail and Journey is performed other than by air:- 1st class A/C Rail Fare by In Shortest Route. (as in Journey has been performed by Rail)

**Note :** (1) Exemption will be for any 2 Journey in a block of 4 years, 1<sup>st</sup> Block 1986-89 and current 8th Block will be 2014-17

(2) In case exemption is not availed of in a block whether for both or for one journey the exemption in respect of only one Journey can be carried forward to the first year of Next succeeding block.
3. The exemption will be not only in respect two surviving children after 1 Oct. 98.
- Exception :** Rate will not apply in respect of children born before 1 Oct. 98 and also in case of multiple birth after one child.
4. In case the LTC is encashed without performing the Journey the entire amount received by the employee would be taxable.
5. **Family Means :** (i) employees with spouse and children (ii) Dependent parents, brother, + sister
6. The exemption is allowed only in respect of fare expenses of Journey non-allow for expenditure .

## 10. Profit in Lieu of Salary

Profit in Lieu salary means payment received by employee in Lieu or in addition to salary and wages.

These payment include the following :

1. Terminal compensation
2. Payment from an unrecognized provident fund or an unrecognized superannuation fund.
3. Payment of Key men Insurance Policy
4. Any amount due or received before joining or after cessation of employment.
5. Any other sum received by the employee from employees.

## Treatment of Retirement Benefits

### 1. Gratuity Sec. 10 (10)

1. In case of govt. employees (other than of statutory corporations) = fully exempted
2. Payment of gratuity act. 1972
  - (a) Actual gratuity Received
  - (b) 15 days salary for every completed year of services
  - (c) 20,00,000 (Which is lower)

#### Note :

- (1) Salary = Basic Pay + D.A. (always include)
- (2) Part of a year in Excess of 6 Month is considered a completed year
- (3) 15 days salary means

$$= \left( \frac{15}{26} \times \text{Salary Last - drawn} \times \text{Compled year of Service} \right)$$

3. In case of other Employee
  - (a) Actually gratuity received
  - (b)  $\frac{1}{2}$  month average salary for every completed year of services
  - (c) 20,00,000

#### Note :

- (1) Salary = Basic Pay + D.A. (It in terms service) Fixed% + Commission on sales
- (2) Average salary = Salary draw during 10 month immediately preceding the mouth of refinement.
- (3) Part of a year in Excess of 6 month is not considered a completed year.

### 2. Pension

Pension is Normally Paid as a periodical Payment on Monthly basis but certain employees may also allow an employee pension as Lump sum amount this is known as commuted pension.

Pension is a payment made by the employees after the retirement / death of employee or Rewarded for past service.

#### In case Commuted Pension

1. In case of employee of central / state govt. or Local authority or statutory corporation - fully exempted.
2. In case any employee
  - (a) Employee receive of gratuity exemption amount.

$$\text{Total Commuted value of } \frac{1}{3} \text{ pension}$$

- (b) And other employee not received gratuity

$$\text{Total commuted value } \times \frac{1}{2} \text{ of pension}$$

#### In Case uncommitted Pension

Fully Taxable for govt. a Non govt. employee

### 3. Leave Salary

1. In case central or state govt. employee - fully exempt.
2. In case other employee (Including employee of Local authority or statutory corporation)
  - (a) Actual amount received
  - (b) Average salary × Earned Leave to credit of employee (unavailed Leave on basis of Max. 30 days Leave form every year.)
  - (c) 10 Month Average Salary
  - (d) 3,00,000 (whichever is Lower)

Note : (1) Salary = Basic pay + D.A. (It in term ....) + % commission on sales

(2) Earned Leave = [Annual Leave (not exceeding 30 days) × completed gear of Actual service] - Leave availed

(3) Fraction year of Ignore

### 4. Retrenchment Compensation

Any compensation Received by workman at the time of his retrenchment under Industrial Disputes act 1947 or under

- (a) Any other act or rules or notification issued
- (b) Any standing order
- (c) Any award contract of service or otherwise

Shall be exempt amount

- (a) Actual amount received
- (b) 15 day's average pay for every completed year of service or part these of in excess 6 months 25(b)
- (c) 5,00,000

### 5. Voluntary Retirement / Separation Scheme (VRS)

#### 1. Applicability

- (a) A Public Sector Company
- (b) A Statutory Authority
- (c) A Local Authority
- (d) Cooperative Society
- (e) University
- (f) State govt.
- (g) Central govt.
- (h) Notified Institution
- (i) Indian Institute of Technology (IIT)

[It is not necessary that whole amount of compensation must be received at the time VRS where the compensation is receivable in Installment the same will exempt]

#### 2. Conditions to be Fulfilled for Exemption

- (a) Who has completed 10 year of service or completed 40 year of age except public sector company.
- (b) It applies to all employees except Director of company or cooperative society.
- (c) The scheme of voluntary retirement should have drawn to result in overall reduction existing strength of employee.
- (d) The vacancy caused by VRS is not filled up.
- (e) Retiring employee is not employed in another / Company or Concern belonging to same management.

### 3. Exemption Amount

- (i)  $3 \text{ Month salary} \times \text{Salary Last drawn} \times \text{Completed year of service}$
- (ii)  $\text{Salary Last Drawn} \times \text{Balance Left - before retirement.}$
- (iii) 500,000  
 $\text{Salary} = \text{Basis Pay} + \text{D.A. (It ...)} + \% \text{ on commission of sales}$
- (iv) Actual Amount Received

### In Respect of Various Provident Fund

Particulars	Statutory provident fund	Recognized provident fund	Unrecognized provident fund	Public provident fund
Employers contribution to provident fund	Fully Exempt	Exempt only to the extent of 12% of salary*	Fully Exempt	-
Deduction under section 80C on employees contribution	Available	Available	Not Available	Available
Interest credited to provident fund	Fully Exempt	Exempt only to the extent rate of interest does not exceed 9.5%	Fully Exempt	Fully Exempt
Payment received at the time of retirement or termination of service	Fully Exempt	Fully Exempt (Subject to certain conditions and circumstances)	Fully Taxable (except employee's contribution)	Fully Exempt

#### Note :

Salary = Basic Pay + Dearness Allowance (to the extent it forms part of retirement benefits) + turnover based commission

Payment from recognized provident fund shall be exempt in the hands of employees in following circumstances:

- (a) If employee has rendered continuous service with his employer (including previous employer, when PF account is transferred to current employer) for a period of 5 years or more
- (b) If employee has been terminated because of certain reasons which are beyond his control (ill health, discontinuation of business of employer, etc.)

Salary = Basic Pay + D.A. + Allowance

### 4. Specified Employee

The following employees are deemed as specified employees:

- (1) A director-employee
- (2) An employee who has substantial interest (i.e. beneficial owner of equity shares carrying 20% or more voting power) in the employer-company
- (3) An employee whose monetary income\* under the salary exceeds Rs. 50,000

\*Monetary Income means Income chargeable under the salary but excluding perquisite value of all non-monetary perquisites

### Deduction Sec (16)

- (i) Entertainment Allowance
- (ii) Tax on employment (Professional Tax)

**Note :**

- (a) Professional Tax is paid by employer on behalf of employee it will first be include in his gross salary as a perquisite there after a deduction on account of professional tax.
- (b) Professional Tax due but not-paid shall not allowed as deduction.
- (c) Standard Deduction from salary 40,000 is allowed from salary income from 1<sup>st</sup> April 2018 onwards.

**Income from House Property****Basic of Charge**

Income is taxable under the head "Income from house property" if the following three conditions are satisfied :

1. The property should consist of any buildings or lands appurtenant thereto.
2. The assessee should be owner of the property.
3. The property should not be used by the owner for the purpose of business or profession carried on by him, the profits of which are chargeable to income-tax.

**Composite Rent**

If apart from recovering rent of the building, in some cases, the owner gets rent of other assets (like furniture) or he charges for different services provided in the building (for instance, security, charges for lift, air conditioning, electricity, water etc.), the amount is known as "composite rent".

Following is the tax treatment of "composite rent":

1. Where composite rent includes rent of building and charges for different services:
2. Where composite rent is rent of letting out of building and letting out of other assets (like furniture) and two letting are not separable i.e., letting of one is not acceptable to the other party without letting of the other)

In such situations, income is taxable either under the head "Profits and gains of business or profession" or "Income from other sources" as the case may be. This rule is applicable even if sum receivable for the two lettings is fixed separately.

3. Where composite rent is rent of letting out of building and letting out of other assets and the two lettings are separable i.e., letting of one is acceptable to the other party without letting of the other):

**When Property Income is not Chargeable to Tax**

In the following cases, rental income is not chargeable to tax:

1. Income from farm house
2. Annual value of any one palace of an ex-ruler
3. Property income of a local authority
4. Property income of an approved scientific research association
5. Property income of an educational institution and hospital
6. Property income of a trade union
7. House property held for charitable purpose
8. Property income of a political party
9. Property used for own business or profession
10. One self-occupied property

**Incomes to be Treated as Income from House Property :** Following are some incomes which are to include in the income from house property :

1. Rental Income from any farm house or agriculture land for any purpose other than agriculture.

2. Any arrears of rent, which has not been taxed, received in subsequent year, shall be taxable as income from house property in the year of receipt.
3. Any unrealized rent received in subsequent year, will be added in rental income without any deduction.

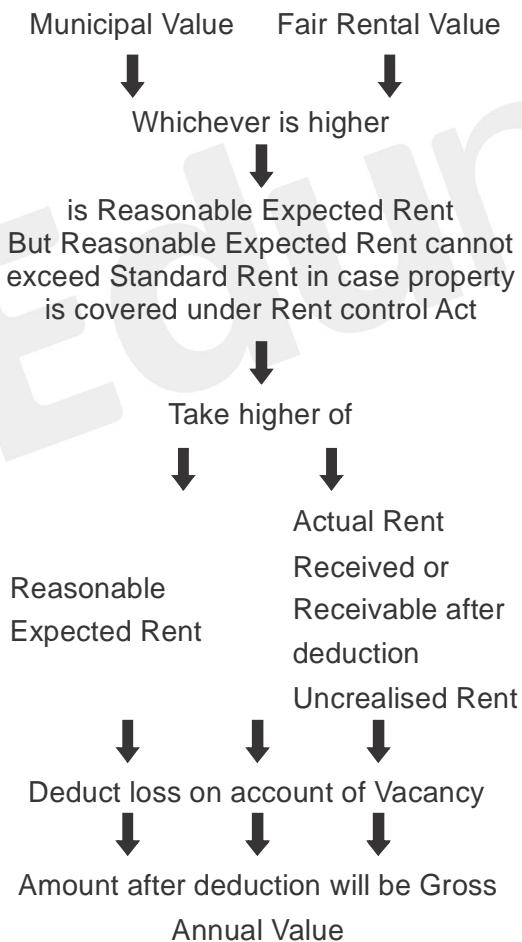
### **Computation of Income Under the Head House Property (Let Out)**

- <b>Gross Annual Value (GAV)</b>	<b>XX</b>
Less : Municipal taxes	XX
Net Annual Value (NAV)	XX
Less : Deductions under section 24:	
Standard deduction	XX
Interest on borrowed capital	XX      XX
Net Income from house property (Let Out)	XX

### **Gross Annual Value**

Tax under the head "Income from house property" is not a tax upon rent of a property. It is tax on inherent capacity of a building to yield income. The standard selected as a measure of the income to be taxed is "annual income".

#### **Computation of Gross Annual Value**



### **Component of Gross Annual Value**

**Municipal Value :** The valuation done by Municipality of the area of property is considered as Municipal value. However, in some big cities, value is determined after deduction 10% on account of repairs, allowance for sewage and water tax etc.

**Fair Rental Value :** This is the rent which can be getting from similar property in similar locality.

**Standard Rent :** This is the maximum rent which can be charged from tenant under Rent Control Act.

Actual Rent received or receivable for previous year less unrealized rent.

### Deduction of Municipal Taxes from Annual Value

From the annual value municipal taxes are to be deducted if the following conditions are fulfilled:

- The property is let out during the whole or any part of the previous year.
- The Municipal taxes must be borne by the landlord. If the Municipal taxes or any part thereof are borne by the tenant, it will not be allowed.
- The Municipal taxes must be paid during the year. Where the municipal taxes become due but have not been actually paid, it will not be allowed.

### Standard Deduction

30% of NAV is deductible irrespective of any expenditure incurred by the assessee. Thus, no deduction can be claimed in respect of expenses on insurance, ground rent, land revenue, repairs, collection charges, electricity, water supply, salary of liftman, etc.

### Interest on Borrowed Capital

Interest on borrowed capital is allowable as deduction, if capital is borrowed for the purpose of purchase, construction, repair, renewal or reconstruction of the property.

**Interest of Pre-construction Period :** Pre-construction period means the period commencing from the date of borrowing and ending on :

- (a) 31<sup>st</sup> March immediately prior to the date of completion of construction/date of acquisition; or
- (b) Date of repayment of loan, whichever is earlier.

Interest payable by an assessee in respect of funds borrowed for the acquisition or construction of a house property and pertaining to a period prior to the previous year in which such property has been acquired or constructed, to the extent it is not allowed as a deduction under any other provision of the Act, is deductible in **five equal annual** installments and the first installment starts from the previous year in which the property is acquired or constructed.

Deduction of interest on loan taken for property is allowed as deduction (on accrual basis). However, in case of self- occupied property there is a limit of Rs. 2,00,000/-.

### When the house property is used by the owner for his residence throughout the year

When a house property is used by the owner for his residence throughout the year, then Income from House property shall be calculated as follows:-

Particulars	Amount
Gross Annual Value	Nil
Less:- Municipal Taxes	Nil
Net Annual Value	Nil
Less:- Standard Deduction	Nil
Less:- Interest on Capital Borrowed for acquisition or construction or renovation or repair of House Property (Interest on Self occupied Property)	
Income or (Loss) from House Property	(*****)

### Interest on Self Occupied Property

Interest on Capital Borrowed for acquisition or construction or renovation or repair of House Property shall be reduced from Net Annual value even when the property is used by the assessee for his residence throughout the year. Since the property is self- occupied, the net annual value shall be Zero and the owner of the house property in such a case will have loss under the head Income from House Property. However such a loss or deduction shall not exceed Rs. 30,000.

## Recovery of Unrealized Rent

Where the assessee cannot realize rent from a property let to a tenant and, subsequently the assessee has realized any amount in respect of such rent, the amount so realized shall be deemed to be income chargeable under the head 'Income from House Property' in the previous year in which such amount has realized, whether or not the assessee is the owner of that house property in that year.

## Arrear Rent of Earlier Years

Rent of a house property might increase retrospectively from a past date due to which the owner of the house property receives the arrears of rent of past period.

## Deemed Ownership

Under Section 27 of the Income Tax Act the assessee in the following cases is deemed to be the owner of the house property, though not owner of the house property :-

- i. If an individual transfers a house property to his or her spouse (except in connection with an agreement to live apart) or to a minor child (except a married daughter) without adequate consideration, he is deemed as the owner of the property for tax purposes.
- ii. The holder of an Impartible Estate is deemed to be the owner of all the properties comprised in the estate.
- iii. A member of a co-operative society, company or association of persons, to whom a property or a part thereof is allotted or leased under a house building scheme of the society, company or association, is deemed to be the owner of such property.
- iv. A person who has acquired a right in a building by way of a lease for a term of not less than 12 years, is the deemed owner of the property. This provision does not cover any right by way of a lease renewable from month to month or for a period not exceeding one year.

## From 1st April, 2018 i.e AY 2019-20

The excess can still be set-off against other heads of income in that year, however, it is limited to a **ceiling of Rs. 2,00,000 only** If there is still any loss from house property beyond Rs. 2,00,000; it may be carried forward to the next year. However, it can only be set-off against income from house property in the subsequent years.

It may be carried forward for 8 subsequent years before it lapses, if not set-off.

## Basics of Depreciation Sec-32

Depreciation is the decrease in the value of an assets due to normal wear and tear and due to obsolescence

- (a) Straight line method (SLM).
- (b) Written down value method (WDV).
- (1) Depreciation is available on assets and block of assets.
  - (a) Tangible (Building, Machinery, Plant and furniture)
  - (b) Intangible (Knowledge, Patents, Copyright, Trademark, Licenses, Franchises etc.)

Block, of assets means group Tangible, or intangible assets in respect of which the same rate of depreciation described.
- (2) Types of depreciation
  - (i) Normal Depreciation for Block of assets (Sec 32)
  - (ii) Depreciation in case of power generation units.
  - (iii) Additional Extra Dep. In case of any eligible new machinery or Pleat. (Other than ship and air craft.)
- (3) Assets must be owned a wholly and partly by assessee.
  - (a) Depreciation is allowed to owner of the assets and also in respect of part or fraction of assets owned by assessee.

- (b) Dep. on Leased assets is available to lessor.
- (c) Assets acquired under hire purchases Dep. allowed only when the assets is used for the purpose of business or profession.
- (4) Following conditions Must be satisfied for depreciation.
  - (a) Assets must be owned by the assesses a wholly or partly.
  - (b) The assets must be used for the purpose of the business or professions.
  - (c) The assets must be used during the previous year.
- (5) Assets should be used in -Previous year  
Dep. will be restricted to 50% of the normal Dep. Take if following conditions are satisfied.
  - (a) The assets are acquired during the P.Y. and
  - (b) It is put to use during the previous year
  - (c) It has been used for a period of less than 180 days during the previous year.

#### **Actual use v/s ready for use**

1. No Dep. an asset not available for use.
2. No Dep. in year of acquisition until assets is put-to use.
3. No Dep. in subsequent-year if block of assets is not used out at all during the previous year.
4. Dep. allowable on spare engines/standby equipment's.
5. Raise of depreciation in case of Block of assets

#### **(I) Buildings**

(a)	Residential buildings except-hotel and building houses.	5%
(b)	Office, Factory, hostel, boarding houses. (Non-residential)	10%
(C)	(i) purely temporary inaction such as wooden structure (ii) Building for installing machinery and Plaunts following Part – of – water supply	[ – 40% ]

#### **(II) Furniture and Fittings**

Furniture and fittings including electrical fitting = @ 10%

#### **(III) Machinery and Plant**

(1)	Motor Cars not-used in business of Recurring them on hire and MM other than those covered in other block	15%.
(2)	Ships and verses	20%
(3)	Motor buses, barriers, and Taxi used in Business of Running on hire. Molds used in semi-conductor industries	30%
(4)	Aero plan. Life Savings equipment	40%
(5)	Class and plastic containers used as Refills	40%
(6)	Computer including computer software	40%
(7)	Flour mills Poolers, Rolling mill Rolls in from and still industries renewal and energy saving devices	40%
(8)	Books Carnival publications turned by assesses	40%

## Intangible Assets

Know How	- 25
Patent	
Copy Right	
Trademark	
licences	
franchises	

## Concept of WDV

WDV of Block of assets as on 1st day P.Y.	...
<b>Add</b> : Actual cost-acquired assets with in Block	...
<b>Less</b> : Sales of assets either in block	...
Wise of block eligible for Dep.	...
<b>Less</b> : Dedication on account of slump states	...
And money purpose in respect of assets of same block	...

## Actual Costs

Purchase Price of the assets	xx
<b>Add</b> : Cost directly attributable to bring assets to its working conditions like freight, Insurance.	
Loading and unloading etc.	xx
<b>Add</b> : Out rest on capital for acquisition of assets till. It is first put use	xx
<b>Less</b> : Amount of excise or customers duty levied on it and included in its cost for which claims has been mode	xx
<b>Less</b> : Cost of assets Net directly or indirectly by govt. in form of subsidy/growth/reimbursement.	xx
<b>Add/Less</b> : Increase/decrease in cost-due to exchange rate fluctuation	xx
Actual cost-of assets for the purpose	...

## Where block of assets ceases to exist

All the assets of the block are transferred.

(a) When block exists but WDV ceases to exist.

Sales price of assets	XX
wdr of Block of assets	XX
stcg	<u>XXX</u>

(b) When WDV exists but the Block ceases to exist-

WDV of block of assets	xx
Less: sales price of assets	xx
STCL	xxx

## Additional Dep.

- Additional Dep. is available on New Machinery or plant (other than ship and aircraft) which has seen acquired and installed after 31.3.2005.
- These plant and Machinery used or assesses engaged in the business or Manufacture or Production.
- It is applicable to only these assesses who claims depreciation on block of assets.

## Dedication

20% of actual cost

Or

10% of actual cost. If Plant and Machinery used to less than 180 days

**Note :** Deduction (Exception)

- (i) Any plant and Machinery installed in any office premises or any residential accommodation, including guest house.
- (ii) Any office appliances including computer or computer software.
- (iii) Any vehicle.
- (iv) Ship or aircraft
- (v) Any Plant and Machinery the whole of the actual cost- of which allowed as deduction in computing the income chargeable the head p If BH of any previous year.
- (vi) Any Plant-and Machinery which before its installation by the assessed was used in India or outside India by any other person.

## Carry Forward and Set-Off an Unabsorbed Dep.

- (i) Dep. first deductible from income from business.
- (ii) If any balance is left due to IFB Being insufficient than it can be set-off from other sources except salary lead in same Previous year.
- (iii) In case still Balance left over it is to be treated unabsorbed Dep. and it taken to Next succeeding year and added to current-Dep. If there is no current year Dep. for succeeding year than unabsorbed Dep. becomes Dep. for such succeeding year.
- (iv) If any carry forward if business loss or speculation loss, then set-off succeeding previous year in following order
  - (a) Set-off current year Dep.
  - (b) Set-off loss of Business loss/speculation loss
  - (c) Set-off unabsorbed Dep.

## Income From Business Head

Business is an activity of purchase and sell of goods with the intention of making profit. Profession is an occupation requiring intellectual skill. E.g. Doctor, Lawyer etc. Vocation is an activity, which requires a special skill, which is used to earn income. e.g. Painter, Singer etc. For income tax purpose there is no difference between business income, profession income and vocation income.

### Section 2 (13) : Business

Business includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture.

Explanation :

Thus business is any activity carried out with the intention to earn profit, whether such an activity is continuous or temporary is immaterial.

In determining whether a particular transaction is an adventure in the nature of trade or not, total impression and effect of all relevant facts and circumstances of the transaction have to be seen. To bring a transaction within the term "business", the transaction must be a "trade" or in the nature of "trade". Hence everything depends upon the facts and circumstances of the case. E.g. A person making investment of surplus funds in shares or debentures cannot be deemed to be carrying on the business of trading in shares although occasionally he may be selling "some" shares or debentures and making gains thereon.

### Method of Computing Taxable Income

1. Gross Sales or Gross fees as the case may be are to be taken as the base if Receipt and Payment A/c or cash Book is given. From this Gross income expenses which are specifically allowed by the income tax act are deducted to arrive at taxable income.
2. If profit and loss a/c or income and expenditure a/c is given Net Profit or (Surplus) is taken as the base and then following adjustments are made: ?
  - (1) Expenses, which are debited, to profit and loss a/c, but disallowed by the Income Tax Act and either fully or partially are added back.
  - (2) Expenses, which are not debited, to profit and loss a/c but which are allowed by the Income Tax Act are deducted.
  - (3) Income that is credited to profit and loss a/c but not taxable at all or taxable under some different head is to be deducted.
  - (4) Income that is not credited to profit and loss a/c, but which is chargeable to tax as business income is to be added.

### Basic of Charge (Section 28)

Under Section 28 following are the income chargeable to tax under the head Profits or Gains from Business or profession: ?

- (1) Profits and Gains of any business or profession that is carried on by the assessee at any time during the previous year.
- (2) Any compensation or other payment due to or received by an assessee for loss of agency due to termination or modification of terms.
- (3) Income derived by a trade, professional or a similar association for specific services performed for its members.
- (4) Any profit on sale of a license granted under Imports (controls) Order 1955 made under Imports and Exports (control) Act of 1947.
- (5) Any cash assistance (by whatever name called) received or receivable against exports under any scheme of Government of India.
- (6) Any duty of customs or excise repaid or repayable as drawback to any person against exports under the Customs and Central Excise Duty's Drawback Rules 1971.
- (7) Any profit on the transfer of the Duty entitlement pass book scheme under export import policy.
- (8) Any profit on the transfer of the Duty free replenishment certificate under export import policy.
- (9) The value of any benefit or perquisite whether convertible into money or not arising from business or exercise of a profession e.g. A gift received by the lawyer from his client.
- (10) Any interest, salary, bonus, commission or remuneration due to or received by partner of a firm from such firm.
- (11) Sum received or receivable in cash or in kind under an agreement for not carrying out any activity in relation to any business or not sharing any know how, patent, copyright, trade mark, license franchise or any other business or commercial right of similar nature or information or technique likely to assist the manufacture or processing of goods or provision of services.
- (12) Any sum received including bonus under Keyman Insurance Policy.
- (13) Any sum received (or receivable) in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.
- (14) Income from a speculative business.

All the expenses relating to business and profession are allowed against income. Following are few examples of expenditures which are allowed against income :

- Rent rates and insurance of building.
- Payment for know-how, patents, copy rights, trade mark, licenses.
- Depreciation on fixed assets.
- Payment for professional services.
- Expenditures on scientific research for business purposes.
- Preliminary Expenses in case of Limited companies.
- Salary, bonus, commission to employees.
- Salary, interest and remuneration to working partners subject to certain conditions.
- Communication expenses.
- Traveling and conveyance expenses.
- Membership fees etc.
- Advertisement expenses in respect of promotion of business products.
- Discount allowed to customers.
- Interest on loans (Whether Private or Institutional).
- Bank Charges/Bank Commission expenses.
- Entertainment/Business Promotion expenses
- Staff Welfare expenses.
- Festival Expenses.
- Printing and stationery expenses
- Postage expenses.
- All other expenses relating to business/profession

**Note :** The above expenditures are allowed on the basis of actual payment as well as on accrual basis at the date of finalization accounts.

#### **Tea/Coffee/Rubber Development Account**

An assessee can claim deduction under this section if the following conditions are satisfied:

1. The assessee must be **engaged in the business** of growing and manufacturing tea or coffee or rubber in India.
2. It must make the following deposit in "special account":
  - (a) Deposit with National Bank for Agriculture and Rural Development (**NABARD**) any amount in accordance with, a scheme approved by the Tea Board or Coffee Board or Rubber Board; **or**
  - (b) Deposit any amount in deposit account opened by the assessee in accordance with, an approved scheme framed by the Tea Board or Coffee Board or Rubber Board with the previous approval of the Central government.
3. The aforesaid amount shall be deposited within 6 months from the end of the previous year or before the due date of furnishing return of income, whichever is earlier.

#### **Amount of deduction**

The amount of deduction is lower of the following:

- (a) A sum equal to amounts "**deposited in special account**" as mentioned above: **or**
- (b) **40% of the profit** of such business computed under the head "Profits and gains of business or profession" before making any deduction under section 33AB and before adjusting brought forward business loss under section 72.

### Note :

	Agricultural Income	Business Income
TEA	60%	40%
COFFEE	75%	25%
RUBBER	65%	35%

### Site Restoration Fund

An assessee can claim deduction under this section if the following conditions are satisfied:

1. The assessee must be engaged in the business of the prospecting for, or extraction or production of, **petroleum or natural gas** or both in India.
2. The Central Government has entered into an agreement with the taxpayer for such business.
3. It must make the following deposit in "special account":
  - (a) Deposit with SBI any amount in accordance with, a scheme approved by the Government of India in the Ministry of Petroleum and Natural Gas; or
  - (b) Deposit any amount in an account (referred to as site restoration account) opened by the assessee in accordance with a scheme framed by the Ministry of Petroleum and Natural Gas.
4. The aforesaid amount shall be deposited before the end of the previous year.

### Amount of Deduction

The amount of deduction is lower of the following:

- (a) A sum equal to amounts "deposited in site restoration account" as mentioned above: or
- (b) 20% of the profits of such business computed under the head "Profits and gains of business or profession" before making any deduction under section 33ABA and before adjusting business forward business loss under section 72.

### Expenditure in Scientific Research

The term "scientific research" means "any activity for the extension of knowledge in the fields of natural or applied sciences including agriculture, animal husbandry or fisheries".

Following is the classification of such expenditures :

#### 1. Revenue Expenditure Incurred by The Assessee Himself

Deduction is allowed for such expenditure only if such research relates to the business.

**Pre-Commencement Period Expenses** : Revenue expenses (other than expenditure on providing **perquisites to employees**) incurred **before the commencement** of business (but **within 3 years** immediately before commencement of business) on scientific research related to the business are **deductible** in the previous year in which the business in **commenced**. However, the deduction is limited to the **extent** it is certified by the **prescribed authority**.

Such expenses may be the expenditure on purchasing **materials** used in scientific research, salary paid to employees (**not being a perquisite**).

#### 2. Contribution Made to Outsiders

Deduction is allowed for any sum paid to a scientific research association or to a university, college or other institution if :

- (a) The payment is made to **an approved scientific research association** which has, as its object, undertaking of scientific research **related or unrelated** to the business of assessee, deduction allowed is 175% of actual expenditure.

- (b) The payment to an **approved university, college or other institution\*** for the use of scientific research **related or unrelated** to the business of assessee, deduction allowed is 175% of actual expenditure.
- (c) The payment is made to an **approved university, college or other institution\*** for the use of research for **social science or statistical research related or unrelated** to the business of the assessee, deduction allowed is 125% of actual expenditure.

### 3. Capital Expenditure Incurred by An Assessee Himself

Deduction is **allowed** for such expenditure, if such research **relates** to the business. However, the following points must be noted in this regard:

- (a) Such expense may be on plant or equipment for research or **constructing building (excluding cost of land)** for research or expenses of capital nature connected with research like expenses on purchase of buses to transport research personnel.
- (b) Where any capital expenditure has been incurred on scientific research related to business before the commencement of business, the amount of such expenditure incurred **within 3 years** immediately preceding the commencement of the business, is deductible in the previous year in which the business is commenced.
- (c) **Deduction is available** even if the relevant asset is **not put to use** for research and development purposes during the previous year in which the expenditure is incurred.

### 4. Contribution to National Laboratory

"National Laboratory" for this purpose means a scientific laboratory functioning at national level under the aegis of the Indian Council of Agricultural Research (**ICAR**), the Indian Council of Medical Research (**ICMR**) or the Council of Scientific and Industrial Research (**CSIR**), the Defense Research and Development Organization (**DRDO**), the Department of Electronics, the Department of Bio Technology or the **Department of Atomic Energy**.

Deduction allowed is **1.75 times** of actual payment made to a "National Laboratory" or a University or IIT or a specified person. However, the above payment must be used by the aforesaid person for undertaking scientific research programme approved by the prescribed authority.

### 5. Expenditure on In-House Research and Development Expenses

Deduction allowed is 2 times of the expenditure incurred if all the given below conditions are satisfied :

- (a) The taxpayer is a **company**.
- (b) The company should be engaged in the **business of manufacture or production** of any article or thing except those specified in the Eleventh Schedule.
- (c) It incurs **any expenditure on scientific research** and such expenditure is of **capital nature or revenue nature (not being expenditure in the nature of cost of any land or building)**. The expenditure on scientific research in relation to drugs and pharmaceuticals shall include expenditure incurred on clinical drug trial, regulatory approval and filling an application for a patent.
- (d) The above expenditure is incurred on in-house research and development facility up to **March 31, 2012**.
- (e) The research and development facility is **approved by the prescribed authority**.
- (f) The taxpayer has entered into an agreement with the prescribed authority for co-operation in such research and development facility and for audit of the accounts maintained for that facility.

However, if the aforesaid conditions are not satisfied, then deduction may be claimed as per the rules mentioned in point (1) and point (3) above relating to revenue expenses and capital expenses respectively.

## 6. Contribution to a Company to be Used by Such Company for Scientific Research

The taxpayer can claim a deduction of **1.25 times** of the amount paid to the payee-company if all the given below conditions are satisfied:

### Payment to Association and Institution for Carrying out Rural Development Programme

This section provides deductions of sums paid by any assessee to:

1. Any association or institution to be used for carrying out any programme of rural development approved before March 1, 1983
2. An association or institution which has its object the training of persons for implementation of a rural development programme approved before March 1, 1983;
3. The National Fund for Rural Development set up by the Government; and
4. The National Urban Poverty Eradication Fund set up and notified by the Central Government.

### Amortization of Preliminary Expenses

Deduction is available in case of an **Indian company** or a **resident non-corporate assessee**. A foreign company even if it is resident in India, cannot claim any deduction under section 35D.

### Amount of Deduction

One-fifth of the **qualifying expenditure** is allowable as deduction in each of the **5** successive years **beginning** with the year in which the **business commences**, or as the case may be, the previous year in which extension of the undertaking is completed or the new unit commences production or operation.

### Qualifying Expenditure Includes

**1. The work should be carried on by the assessee itself or by a concern approved by the board :** Expenditure in connection with preparation of feasibility report, preparation of project report, conducting a market survey (or any other survey necessary for the business of the assessee), or engineering services relating to the business of the assessee , provided the work is carried on by the assessee himself or by a concern which is for the time being approved in this behalf by the board.

**2. The work can be carried on by the assessee itself or by any concern (approved or not approved) :**

- (i) **Legal charges** for drafting any agreement between the assessee and any other person relating to the setting up of the business of the assessee.
- (ii) Legal charges for drafting the memorandum and articles of association, if the taxpayer is a company.
- (iii) **Printing expenses** of the memorandum and articles of association, if the taxpayer is a company.
- (iv) **Registration fee** of a company under the provisions of the Companies Act.
- (v) Expenses in connection with the public **issue of shares** or debentures of a company, underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus.
- (vi) **Expenses on incorporation.**

### Maximum ceiling of qualifying expenditure

The amount qualified as deduction must never exceed the following limits:

1. In the case of a **corporate assessee** :  
5% of the cost of project or 5% of capital employed, whichever is **more**.
2. In the case of a **non-corporate assessee**: **5% of the cost of project.**

## Capital Employed

It means the aggregate of the issued share capital (sum total of share capital and amount outstanding as share premium account), debentures and long term borrowings (repayable for not less than 7 years) **as on the last day** of the previous year in which the business of the company commences.

**Cost of The Project :** It means the actual cost (or additional cost incurred after commencement of business in connection with extension or setting up an undertaking) of fixed assets, namely, land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee **on the last day** of the previous year in which the business of the assessee commences.

## Amortization of Expenditure in The Case of Amalgamation/Demerger

1. The taxpayer is an Indian company or co-operative bank.
2. It incurs any expenditure for the purpose of amalgamation or demerger.
3. The expenditure is deductible in 5 equal annual installments and the first installment starts from the previous year in which amalgamation or demerger takes place.
4. No deduction shall be allowed in respect of the above expenditure under any other provision of the Act.

## Amortization of Expenditure Under Voluntary Retirement Scheme

1. An expenditure is incurred in any previous year by way of payment of any sum to an employee in connection with his voluntary retirement under any scheme of voluntary retirement.
2. The amount is deductible in 5 equal annual installments and the first installment starts from the year in which the expenditure is incurred.

The following points should be noted in this regard :

1. The above rule is applicable even if the scheme of voluntary retirement has not been framed in accordance with guidelines prescribed under section 10(10C).
2. Each part of the payment in connection with voluntary retirement is deductible in 5 years in 5 equal installments.

## General Expenditure for The Purpose of Business or Profession

Any other expenditure not covered by section 30 to 36 which is of revenue nature will be allowed as deduction provided it is incurred exclusively for the purpose of business or profession. e. g

1. Embezzlement of cash.
2. Expenses on local festival such as Diwali, Muhurta etc.
3. Cash shortage found in the business at the end of the day.
4. Entertainment Expenses
5. Advertisement Expenses
6. Travelling Expenses
7. Guest House Expenses.
8. Lawful expenses related to illegal business.
9. Premium on redemption of debentures
10. Discount on issue of debentures (on pro rata basis)

## Expenses Not Deductible Under Section 37

1. Donations
2. Charities
3. Gifts to relatives
4. Income tax

5. Wealth tax
6. Advance income tax
7. Fines and penalties for breach of any laws.
8. Personal Drawings
9. Salary to owner
10. Interest on proprietors capital
11. Capital expenditure
12. Purchase of an assets
13. Extension of building
14. Personal expenditure
15. Household expenses.
16. Drawings
17. Education expenses of children
18. Residential telephone bill
19. Residential electricity bill
20. Residential maintenance
21. Amount transferred to reserve
22. Personal Hotel expenses
23. R.D.D. But deduction is allowed for actual bad debts
24. Personal motor expenses
25. L.I.C. on own life.
26. Any Investments
27. Any expenses related to let out house property.
28. Expenditure on Advertisement (Section 37(2B)): It is allowed as deduction. However, as per Section 37 (2B), any expenditure incurred by an assessee on the advertisement in any souvenir, brochure, pamphlet etc. published by a political party will not be allowed as deduction.
29. In case of all assessee Section 40(a): Interest, royalty, fees for technical services or any other sum chargeable to tax payable outside India without deducting tax at source and where there is no person to be treated as an agent of person receiving this amount.
30. Salary paid outside India without deducting tax at source
31. Any contribution to PF or any other Fund, if there is no arrangement for TDS from any payment to be made from such Fund if it is taxable under the head Salaries.

### Deductions Under Section 40

Deduction to firm / AOP on certain appropriations: ?

1. **In Case of Partnership Firm Section 40(b) :** Payment of salary, bonus, commission or remuneration to partner of the firm, by the firm is allowed as deduction only to the following extent: ?
  1. Loss or profit up to Rs. 3,00,000 1,50,000 or 90% of book profit which-ever is more
  2. On the balance 60% of book profit
2. **In Case of A.O.P. Section 40(ba) :** Any payment of Interest, Salary, bonus, commission or remuneration made by A.O.P. or B.O.I. to the member thereof shall not be allowed as deduction.
3. **Interest to Partners :** Interest on capital of partners is allowed as deduction provided it is authorized by the partnership deed and rate of interest does not exceed 12% p.a.

### Amount Expressly Disallowed under The Act

<b>Section</b>	<b>Description</b>
40(a) (i)	<p>Any sum (other than salary) payable outside India or to a non-resident, which is chargeable to tax in India in the hands of the recipient, shall not be allowed to be deducted if it was paid without deduction of tax at source or if tax was deducted but not deposited with the Central Government till the due date of filing of return.</p> <p>However, if tax is deducted or deposited in subsequent year, as the case may be, the expenditure shall be allowed as deduction in that year.</p>
40(a)(ia)	<p>Any sum payable to a resident, which is subject to deduction of tax at source, would attract 30% disallowance if it was paid without deduction of tax at source or if tax was deducted but not deposited with the Central Government till the due date of filing of return.</p> <p>However, where in respect of any such sum, tax is deducted or deposited in subsequent year, as the case may be, the expenditure so disallowed shall be allowed as deduction in that year.</p>
40(a)(ib)	<p>Any sum paid or payable to a non-resident which is subject to a deduction of Equalization levy would attract disallowance if such sum was paid without deduction of such levy or if it was deducted but not deposited with the Central Government till the due date of filing of return.</p> <p>However, where in respect of any such sum, Equalization levy is deducted or deposited in subsequent year, as the case may be, the expenditure so disallowed shall be allowed as deduction in that year.</p> <p>Note: This provision has been inserted by the Finance Act, 2016, w.e.f. 1-6-2016</p>
40(a)(ii)	Any sum paid on account of any rate or tax levied on the profits and gains of business or profession is not deductible
40(a)(iia)	Wealth-tax or any other tax of similar nature shall not be deductible
40(a)(iii)	Salaries payable outside India, or in India to a non-resident, on which tax has not been paid/deducted at source is not deductible.
40(a)(iv)	Payments to provident fund or other funds for employees' benefit shall not be deductible if no effective arrangements have been made to ensure deduction of at source from payments made from such funds to employees which shall be chargeable to tax as 'salaries'.
40(a)(v)	Tax paid by the employer on non-monetary perquisites provided to employees is not deductible if the tax so paid is not taxable in the hands of employees by virtue of Section 10(10CC).
40A(2)	Any payment to related parties (relatives, directors, partner, member of HUF/AOP, person who has substantial interest in business of the taxpayer, etc.) in respect of any expenditure shall be disallowed to the extent such expenditure is considered excessive or unreasonable by the Assessing Officer having regard to its fair market value.
40A(3)/ (3A)	An expenditure, which is otherwise deductible under any provision of the Act, shall be disallowed if payment thereof has been made otherwise than by account payee cheque/bank draft or use of electronic clearing system through a bank account and it exceeds Rs. 10,000 (Rs. 35,000 in case of payment made for plying, hiring or leasing goods carriages) in a day (Subject to certain conditions and exceptions).
40A(7)	<p>Provision for payment of gratuity to employees, other than a provision for contribution to approved gratuity fund, shall not be allowed as deduction (Subject to specified conditions).</p> <p>Gratuity actually paid (or payable) during the year and contribution to approved gratuity fund is allowed as deduction.</p>

## Other Provision

Section	Particulars	Provision
42	Special allowance in case of business of prospecting etc. for mineral oil (including petroleum and natural gas) in relation to which the Central Government has entered into an agreement with the taxpayer for the association or participation (Subject to certain conditions).	Following deductions shall be allowed as deductions: (a) Any infructuous exploration expenditure (b) Expenditure on drilling or exploration activities or services, etc. (c) Allowance in relation to depletion of mineral oil, etc.
43A	Special provisions consequential to changes in rate of exchange of Currency (Subject to certain conditions).	Any increase or decrease in the liability incurred in foreign currency (to acquire a capital asset) pursuant to fluctuation in the foreign exchange rates shall be adjusted with the actual cost of such asset only on actual payment of the liability.
43C	Acquisition of any asset (except stock-in-trade) by the taxpayer in the scheme of amalgamation or by way of gift, will etc.	Cost of acquisition of any asset (except stock-in-trade) acquired by the taxpayer in the scheme of amalgamation or by way of gift, will etc. from the transferor (who sold it as stock-in-trade) shall be the cost of acquisition in the hands of transferor as increased by cost of any improvement made

## Accounts And Audit

**44AA : Compulsory maintenance of prescribed books of account – Specified Profession**  
(Subject to certain conditions and circumstances)

### Business

Section 44AB of the Income-tax Act ('the Act') makes it obligatory for every person carrying on business to get his accounts of any previous year audited if his total sales, turnover or gross receipts **exceed one crore rupees**.

However, if an eligible person opts for presumptive taxation scheme as per section 44AD(1) of the Act, he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed two crore rupees. The higher threshold for non-audit of accounts has been given only to assesses opting for presumptive taxation scheme under section 44AD."

### Profession

Rs. 50 Lakh. It means an assessee need to be audited under Sec 44AB if his annual gross receipts in profession exceeds Rs. 50 Lakh. This provision is applicable from F.Y. 2016-17 (A.Y. 2017-18)

### Deemed Profit

#### Civil Construction of Labour (44 AD) :

- 8% of gross Receipts
- Or Cheques 6% of gross receipts.

Turnover less than 2 Crore

#### Income of Transfer (Heavy Vehicle) (44 AE) :

Not more than 10 Goods Carriage

- Light goods (Less than 12 MT) – 7500 per Vehicle / Month
- Heavy goods (More than 12 MT) – 1000 Rs. Per ton per Vehicle

**Retail Business (44 AF) :**

5% of Total turnover

Less Than 1 Crore

**Shipping Business of Non Resident (44 – B) :**

Non Resident engaged business of operations of shipping Business @ 7.5 % of aggregate amount.

**Oil Exploration Business (44 BB) :**

Non Resident

10% of aggregate amount for Non Resident

Business of operation of air craft in case of Non-Resident (44 BBA)

5% of aggregate amount

**Compensations of People of Foreign Enterprises (44 BBB) :**

A sum equal 10 % of amount payable

**Specified Business (44 ADA) :**

Gross Receipts does not exceeds 50 Lakh

Total Gross Receipts @ 50 %

**Capital Gain**

Any profits arising on the Transfer of any Capital Asset shall be chargeable to tax under the head Capital Gains in the year of transfer.

**Capital Assets**

It means property of any kind :

- (a) **Stock in Trade** : (E.g.: X is a dealer in house property. For him, house property is stock-in-trade. Any profit earned by him on sale of stock-in-trade (i.e., house property) would be taxable as Business income). movable or immovable, tangible or intangible but does not include the following:
- (b) **Personal Effects** : It means any Article, Commodity or Property used in the day-to-day life of the individual which is a movable property (i.e. Not capital asset). But personal effect excludes Jewellery (i.e. Jewellery is a capital asset), Archaeological collections, Drawings, Paintings, Sculptures, Any work of art. E.g.: Z purchases a computer for his personal use. It is treated as "personal effects" therefore not a capital asset. Any surplus arising on transfer of it can't be taxed under the head "CG".
- (c) **Agricultural Land not situated in the "Specified Area"** (i.e. agricultural land situated in specified area is called capital asset). Specified area – any area located within the limits of a Municipality which has a population of  $\geq 10,000$  according to the last census and includes any area within the distance of 8 Kms. from the limits of such Municipality.
- (d) **Special Bearer Bonds, 1991** (No more in existence).
- (e) **Gold Bonds issued under Gold Deposit Scheme, 1999.**

**Issues**

- (i) Silver utensils consisting of thalis etc. meant for personal use constitute personal effects and the gains arising on sale of such utensils cannot be taxed as capital gains. The legislature intended articles which are intimately and commonly used by the assessee to be included within the expression "Personal effects".
- (ii) Gold, silver coins and bars used for puja are "Capital assets".
- (iii) A property intended for personal or household use (may for ceremonial occasion only), is always a " personal effects".
- (iv) In order to qualify for "agricultural land in India", it is not necessary that land was once agricultural land. It must be agricultural land at the time of sale.

The following are not considered capital assets :

- (i) Any stock, consumables or raw material held for the purpose of business or profession.
- (ii) Personal goods such as clothes and furniture held for personal use.
- (iii) Agricultural land in rural India.
- (iv) 6½% gold bonds (1977) or 7% gold bonds (1980) or national defence gold bonds (1980) issued by the central government.
- (v) Special bearer bonds (1991).
- (vi) Gold deposit bond issued under the gold deposit scheme (1999).

## Transfer

### Transfer Means Sales

- (i) Exchange (Must be of two capital assets).
- (ii) Relinquishment of an Asset.
- (iii) Extinguishment of an Asset.
- (iv) Compulsory acquisition by Government.
- (v) Conversion of an asset into Stock-in-trade.
- (vi) Any transfer covered by Sec.53 A of the transfer of Property Act.
- (vii) The maturity or redemption of zero coupon bonds.

### Transfer when Completed

- (a) **Immovable Property when Documents are Registered** : Ownership of immovable assets will not pass till the title deeds are registered in the name of purchaser.
- (b) **Immovable Property when Documents are not Registered** : Even if the documents are not registered but when the conditions of Sec.53A of the Transfer of Property Act are satisfied, ownership is "transferred".
- (c) **Movable Property** : Ownership passes at the time when property is delivered pursuant to a contract to sell.

### Types of Capital Gains

Capital gains arising on transfer of a short term capital asset are called STCG.

### Manner of Computation – Sec. 48 (For Non depreciable assets)

Full value of Consideration		xxxx
Less : Transfer Expenses		xxxx
Net Consideration		xxxx
Less: Cost of Acquisition	xxxx	
Cost of Improvement	xxxx	xxxx
Gross Capital Gains/Loss		xxxx
Less : Exemption U/s.54 etc.		xxxx
Net STCG/L		

**LTCG** : Capital gains arising on transfer of a Long term capital asset are called LTCG.

### Cost Inflation Index (CII)

Cost inflation Index is a term that comes into play when we talk about long-term capital gains. This index is fixed and is declared every year by the government. For calculating capital gains on long-term assets, indexation is used.

## Indexation

Indexation is the process of adjusting prices based on a standard index so as to factor in the inflation rate also while calculating profits earned on sale of assets. Indexation is important because prices generally do not remain flat and tend to vary with time; hence, computing profits based on the original price of an asset is not an accurate measure of profit. Indexation takes into account inflation too and gives us a more reasonable figure for long-term capital gains.

Indexed Cost of Acquisition = (Actual cost of purchase) X (CII Of Year of Sale)/(CII of Year of Purchase).

Capital Gain = (Sale Price – Indexed Cost of Acquisition)

Capital Gains Tax = 20% of Capital Gain

## Cost of Acquisition (COA)

Cost of Acquisition (COA) means any capital expense at the time of acquiring capital asset under transfer, i.e., to include the purchase price, expenses incurred up to acquiring date in the form of registration, storage etc. expenses incurred on completing transfer.

### Cost of Acquisition with Reference to Certain Modes of Acquisition

Where the capital asset became the property of the assessee

- (a) on any distribution of assets on the total or partial partition of a Hindu undivided family;
- (b) under a gift or will;
- (c) by succession, inheritance or devolution;
- (d) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before 1.04.1987;
- (e) on any distribution of assets on the liquidation of a company;

## Cost of Improvement

Cost of improvement is the capital expenditure incurred by an assessee for making any addition or improvement in the capital asset. It also includes any expenditure incurred in protecting or curing the title. In other words, cost of improvement includes all those expenditures, which are incurred to increase the value of the capital asset. However, any expenditure which is deductible in computing the income under the heads Income from House Property, Profits and Gains from Business or Profession or Income from Other Sources (Interest on Securities) would not be taken as cost of improvement.

Cost of Improvement in relation to below mention shall be taken to be nil.

- (i) Goodwill.
- (ii) Right to manufacture, produce or process any article or thing.
- (iii) Right to carry on any business.

## Any Other Capital Asset

- (i) **In Case Asset Acquired Before 01/04/1981 :** Cost of Improvement incurred since 01/04/1981 either by previous owner or assessee.
- (ii) **In Case Asset Acquired After 01/04/1981 :** All cost incurred by previous owner and assessee.

## Cost of Inflation Index

Financial Year	Assessment Year	Cost of Inflation Index
2001-02	2002-03	100
2017-18	2018-19	272

## Computation of Capital Gain

Replace Indexed Cost of acquisition and Indexed Cost of Improvement for Cost of Acquisition and Cost of Improvement.

- (a) **Capital Gains are Chargeable on Accrual Basis :** It is not necessary that the consideration should be received in the year of transfer itself.
- (b) **Receipt of Consideration in Installments :** Even in that case also the entire consideration has to be taken into account for computing the capital gains.
- (c) **Transfer Expenses :** Sales commission paid for broker, cost of stamp, registration fees borne by the seller, traveling expenses incurred in connection with transfer.

**Short-Term Capital Asset :** An asset which is held for not more than 36 months or less is a short-term capital asset.

**Long-Term Capital Asset :** An asset that is held for more than 36 months is a long-term capital asset.

**From FY 2017-18 Onwards :** The criteria of 36 months has been reduced to 24 months in the case of immovable property being land, building, and house property. For instance, if you sell house property after holding it for a period of 24 months, any income arising will be treated as long-term capital gain provided that property is sold after 31st March, 2017.

But this change is not applicable to movable property such as jewelry, debt oriented mutual funds etc. They will be classified as a long-term capital asset if held for more than 36 months as earlier.

Some assets are considered short-term capital assets when these are held for 12 months or less. This rule is applicable if the date of transfer is after 10th July, 2014 (irrespective of what the date of purchase is). The assets are :

- Equity or preference shares in a company listed on a recognized stock exchange in India
- Securities (like debentures, bonds, govt. securities etc.) listed on a recognized stock exchange in India
- Units of UTI, whether quoted or not
- Units of equity oriented mutual fund, whether quoted or not
- Zero coupon bonds, whether quoted or not

## Tax on Equity and Debt Mutual Funds

Gains made on the sale of debt funds and equity funds are treated differently. Funds that invest heavily in equities, usually exceeding 65% of their total portfolio, is called an equity fund.

	Effective 11 July, 2014		On or Before 10 July, 2014	
	Short-Term Gains	Long-Term Gains	Short-Term Gains	Long-Term Gains
<b>Debt Funds</b>	At tax slab rates of the individual	At 20% with indexation	At tax slab rates of the individual	10% without indexation or 20% with indexation whichever is lower
<b>Equity Funds</b>	15%	Nil	15%	Nil

## Computation of Period of Holding

- (a) **Sec. 49 (1) Previous Owner :** If the capital assets is acquired by the assessee through any of the way / mode specific u/s 49 (1) then the period for which the previous owner held the assets should be included for computing the period of holding of the assessee /person who sold it. (i.e. the word held by assessee means held by the assessee and by the previous owner)

- (b) **Primary Market :** In case the assessee purchased any shares etc. in primary market, the period of holding shall be calculated from the date of allotment of such shares etc. and not from the date of application for shares etc. was made.
- (c) **Amalgamation :** In the case of a shareholder who received the shares in the amalgamated company in exchange of shares held in amalgamating company, in computing the period of holding of shares of amalgamated company.
- (d) **Demerger :** In the case of a shareholder who received the shares in the resulting company in exchange of the shares held in the demerged company, in computing the period of holding of shares in resulting company, the period of holding of the demerged company shared also included.
- (e) **Right Renunciation :** If the right to subscribe to shares is renounced to any other person the period of holding of the asset (Right Renunciation) shall be calculated from the date of the offer of such right by the company up to the date of renunciation included.
- (f) **Liquidation :** In case the company in which shares are held by the assessee gets liquidated, while computing the period of holding of such shares, the period of holding subsequent to the date of liquidation shall not be taken into account (i.e. excluded)
- (g) **Specified Security/Sweat Equity Shares :** The period of holding for any specified security or sweat equity shares allotted or transferred, by the employer free of cost or at concessional rate to his employees shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares.
- (h) **Exchange of stock exchange membership card** with shares issued by stock exchange in the process of corporatization of stock exchange - the period of holding of such shares shall be calculated from the date of acquisition of membership card.
- (i) **When the assessee is owner of an asset received under a mode specified under section 49(1)** and thereafter the asset is converted by the assessee into a new asset, the period of holding would commence from the date of conversion.

### Exemption of Capital Gain

#### (a) Transfer of Unit Sec. 10(33)

It provides that any income arising from the transfer of a capital asset being a unit of US 64, if such transfer takes place on or after 1.4.02, shall be exempt from tax. This is applicable whether the capital asset (US-64) is long-term capital asset or short-term capital asset.

#### (b) Exemption of Capital Gain on Compulsory Acquisition of Urban Agriculture Land

- (a) The assessee is an individual or a HUF
- (b) He or it owns an agriculture land situated in specified area.
- (c) There is a transfer of the agriculture land by way of compulsory acquisition.
- (d) The agriculture land was used by the assessee (and/or his parents if the land was owned by an Individual) for agricultural purposes during 2 years immediately prior to the date of transfer.
- (e) The assets may be long term capital asset or short term capital asset.
- (f) Capital gain arises from compensation which is received on or after 1.4.04 (the date of compulsory acquisition may be before 1.4.04). (\*) g. Even enhanced compensation which is received on or after 1.4.04 is eligible for such exemption

#### (c) Exemption of LTCG on Transfer of Securities of Securities

- (a) Capital gains will be exempted if the following conditions are satisfied:
- (b) The transferred asset must be Long term Capital Assets.

- (c) The asset transferred is equity shares in a Co. or units of equity oriented mutual fund.
- (d) Transfer taken place on or after October 1st, 2004.
- (e) The transaction should be chargeable to Securities Transaction Tax/STT (i.e. the transfer should take place through a recognised Stock Exchange).

**(d) Compulsory Acquisition**

- (a) Transfer of a Capital Asset by way of Compulsory Acquisition, under any law or When a capital asset is transferred (not by way of compulsory acquisition) and the consideration is approved or determined by the Central Government (not by a State Government) or the Reserve Bank of India. :
- (b) Year of Chargeability: In the previous year in which compensation is received (Full/Part).
- (c) Consideration: Compensation.
- (d) Indexation is available only up to the year of transfer.

**(f) Transfer of Securities in Demat Form**

If shares/securities are transferred in "Demat" form, beneficial owner of shares/ securities is chargeable to tax.

For computing capital gain chargeable to tax, the cost of acquisition and period of holding of any security shall be determined on the basis of first-in-first-out (FIFO) method.

The Board has issued the following clarification vide Circular No.768, June 24, 1998:

1. FIFO method will be applied only in respect of the dematerialized holdings.
2. In the depository system, the investor can open and hold multiple accounts. In such a case, where an investor has more than one security account, FIFO method will be applied account wise.

**(g) Distribution of Assets by Company in Liquidation**

In the case of shareholders of the company, capital gains shall be chargeable to tax on such distribution. For the purpose of computation of Capital gains, the consideration shall be determined as follows:

- (a) Distribution in cash: Amount received less deemed dividend u/s.2(22)(c)
- (b) Distribution in kind: Fair market value of the asset on the date of distribution less deemed dividend u/s.2(22) (c).

**(h) Buy Back of Share and Capital Gains SEC.46A**

- (a) **Manner of Computation** : Where a company purchases its own shares the difference between the cost of acquisition and consideration received by the shareholder shall be taken as Capital gain.
- (b) **Indexation** : If the shares are long term capital asset indexation facility is available.
- (c) **Year of Chargeability** : In the year in which such shares are purchased by the Co.

**Exemption 54**

Section 54 provides for exemptions in respect of long term capital arising on transfer of certain capital assets. However, in order to claim this exemption the assessee is required to invest either net consideration or capital gain in certain specified assets. Besides this, an assessee is required to fulfill certain conditions specified in relevant sections granting the exemption. These exemptions are covered u/s 54, 54B, 54D, 54EC, 85F, 54G and 54GA and are as follows:

**(a) Exemption on Capital Gain from Sale of House Property**

**Allow Ability** : Exemption is Allowed provided the Assessee has Long Term Capital Gains on transfer of Residential House

**Allowed To** : Individual/HUF

**Conditions to be Satisfied :**

- (a) The Assessee Should have purchased one house either one year before or two years after the date of transfer or the assessee should construct one house within three years after the date of transfer.
- (b) The Assessee should either purchase or construct only one House within the specified time period.
- (c) The House so purchased or constructed should not be transferred for a period of at least 3 Years

**(b) Exemption on Capital Gains From Transfer of Land Used for Agricultural Purpose**

**Allow ability :** Exemption is Allowed provided the Assessee has Capital Gains on transfer of Agricultural Land

**Allowed To :** Individual/HUF

**Conditions to be Satisfied :**

- (a) The Assessee Should have purchased one or more Agricultural Land within a period of two years after the date of transfer,
- (b) The Assesee or his parents should have been using Agricultural Land so transferred for a period of at least 2 years at the time of Sale.
- (c) The Land so purchased should not be transferred for a period of at least 3 Years

**Amount of Exemption :** Amount of Exemption shall be equal to Amount Invested(Subject to Capital Gains

**(c) Capital Gains on Compulsory Acquisition of Land And Buildings**

**Allow Ability :** Exemption is Allowed provided the Assessee has Capital Gains on Compulsory Acquisition of Industrial Undertaking.

**Allowed To :** All Assesses

**Conditions to be Satisfied :**

- (a) The Assessee Should have Invested the Amount in Land and Building for the purpose of Industrial Undertaking within a period of Three years after the date of Payment by Government.
- (b) The Assesee should have been using such Land and Building for the purpose of Industrial Undertaking for a period of at least 2 years at the time of Acquisition.
- (c) The Land and Building so purchased should not be transferred for a period of at least 3 Years.

**Amount of Exemption :** Amount of Exemption shall be equal to Amount Invested(Subject to Capital Gains

**(d) Capital Gain not to be Charged on Investment in Certain Bonds**

**Allow ability :** Exemption is Allowed provided the Assessee has Capital Gains on transfer of any Capital Asset.

**Allowed To :** All Assesses

**Conditions to be Satisfied :**

- (a) The Assessee Should have Invested the Amount in Long Term Specified Asset within a period of 6 Months from the date of transfer. However from the Assessment Year 2018-19 investment in any bonds redeemable after three years shall be eligible for exemption
- (b) The Assesee is not allowed to Convert the Security into Cash i.e. The Assesee is not allowed to take Loan on the basis of security.
- (c) The Asset so purchased should not be transferred before its expiry period.

**Amount of Exemption :** Amount of Exemption shall be equal to Amount Invested (Subject to Capital Gains).

Bonds Issued by : NHAI (National Highway authority of India)

REC (Rural Electrification Corporation)

#### (e) Capital Gain not to be Charged on Investment in Special Fund

**Allow ability :** Exemption is Allowed provided the Assesse has Capital Gains on transfer of any Capital Asset.

**Allowed To :** All Assesses

**Conditions to be Satisfied :**

- (a) The Assesse Should have Invested the Amount in Long Term Specified Asset within a period of 6 Months from the date of transfer. However from the Assessment Year 2018-19 investment in any bonds redeemable after three years shall be eligible for exemption
- (b) The Assesse is not allowed to Convert the Security into Cash i.e. The Assesse is not allowed to take Loan on the basis of security.
- (c) The Asset so purchased should not be transferred before its expiry period.

**Amount of Exemption :** Amount of Exemption shall be equal to Amount Invested (Subject to Capital Gains).

#### (f) Exemption on Capital Gains on Sale of Any Asset other than a House Property

**Allow ability :** Exemption is Allowed provided the Assesse has Long Term Capital Gains on transfer of any Capital Asset except Residential House.

**Allowed To :** Individual/HUF

**Conditions to be Satisfied :**

- (a) The Assesse Should have purchased one house either one year before or two years after the date of transfer Or The Assesse should Construct one house within three years after the date of transfer.
- (b) The Assesse Should either Purchase or Construct only one House within the specified time period. Also, the Assesse should not have more than one house in his name at the time of transfer.
- (c) The House so purchased or constructed should not be transferred for a period of at least Three Years

**Amount of Exemption :** Amount of Exemption shall be equal to Capital Gains/Net Consideration\*Amount of Investment.

**Capital Gain Accounts Scheme,1988 Applicability :** Applicable

**Consequences :** If Assesse Violates Condition c.) Stated above Exemption earlier allowed shall be considered to be Long Term Capital Gain of the Year in which the Asset has been transferred.

**Exemption Amount =** Exemption amount of Capital gain /Amount investment x Net Consideration

#### (g) Exemption of Capital Gains on Transfer of Assets in Cases of Shifting of Industrial Undertaking from Urban Area

**Allow ability :** Exemption is Allowed provided the Assesse has Capital Gains in connection with shifting of Industrial Undertaking from Urban area to any other area.

**Allowed To :** All Assesse

**Conditions to be Satisfied :**

- (a) The Assesse Should have Invested the Amount in Land and Building or PandM ( Not Furniture and Fixture for the purpose of Industrial Undertaking either one year before or three years after the date of transfer.

- (b) Exemption shall also be allowed for shifting expenses
- (c) The Asset so purchased should not be transferred for a period of at least three years.

**Amount of Exemption :** Amount of Exemption shall be equal to Amount Invested in Land and Building and Plant and Machinery Not Furniture and Fixture (Subject to Capital Gains)

**(h) Exemption of Capital Gains on Transfer of Assets in Cases of Shifting of Industrial Undertaking from SEZ**

**Allow ability :** Exemption is Allowed provided the Assesse has Capital Gains in connection with shifting of Industrial Undertaking from Urban area to SEZ .

**Allowed To :** All Assesse

**Conditions to be Satisfied :**

- (a) The Assesse Should have Invested the Amount in Land and Building or PandM ( Not Furniture and Fixture for the purpose of Industrial Undertaking either one year before or three years after the date of transfer.
- (b) Exemption shall also be allowed for shifting expenses
- (c) The Asset so purchased should not be transferred for a period of at least three years.

**Amount of Exemption :** Amount of Exemption shall be equal to Amount Invested in Land and Building and Plant and Machinery Not Furniture and Fixture (Subject to Capital Gains)

**(i) Capital Gain on Transfer of Residential Property not to be Charged in Certain Cases**

**Allow ability :** Exemption is Allowed provided the Assesse has long Term Capital Gains on transfer of any Residential House or Plot.

**Allowed To :** Individual/HUF

**Conditions to be Satisfied :**

- (a) The Assesse Should have Incorporated a new company before due date of filling of Return of Income and Should have subscribed to more than 50% of the Shares of the Company.
- (b) The Assesse Should Invest the Amount in Plant and Machinery within one Year from the date of Purchase of Shares.
- (c) The Plant and Machinery so purchased should not be transferred for a period of at least Five Years.

**Amount of Exemption :** Amount of Exemption shall be equal to Capital Gains/Net Consideration x Amount of Investment (Subject to Capital Gains)

**Income From Other Sources**

**Basis of Charges**

As per section 56(1), income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", an income which is not income from "Salaries", "Income from house property", "Profits and gains of business or profession" or "Capital gains", is to be computed and brought to charge under the head Income from other sources.

**Items of Income Specially Chargeable under This Head 56 (2)**

- (i) As per section 56(2)(i), dividends are always taxed under this head. However, dividends from domestic company other than those covered by section 2(22)(e) are exempt from tax under section 10(34).
- (ii) Winnings from lotteries, crossword puzzles, races including horse races, card game and other game of any sort, gambling or betting of any form whatsoever, are always taxed under this head.

- (iii) Income by way of interest received on compensation or on enhanced compensation shall be chargeable to tax under the head "Income from other sources", and such income shall be deemed to be the income of the year in which it is received, irrespective of the method of accounting followed by the assessee. However, a deduction of a sum equal to 50% of such income shall be allowed from such income. Apart from this, no other deduction shall be allowed from such an income.
- (iv) Gifts received by an individual or HUF (which are chargeable to tax) are also taxed under this head.
- (v) In addition to above, following incomes are charged to tax under this head, if not taxed under the head "Profits and gains of business or profession".
  - (a) Any contribution to a fund for welfare of employees received by the employer. [Section 56(2)(ic)].
  - (b) Income by way of interest on securities. [Section 56(2)(id)].
  - (c) Income from letting out or hiring of plant, machinery or furniture. [Section 56(2)(ii)].
  - (d) Income from letting out of plant, machinery or furniture along with building; both the lettings are inseparable. [Section 56(2)(iii)].
  - (e) Any sum received under a Keyman Insurance Policy including bonus. [Section 56(2)(iv)].

### Dividend

Any Kind of dividend, paid, declared or distributed by a Indian company or units of mutual fund is liable to dividend distribution tax and hence is exempt from tax in hands of recipient under section 10(34).

Dividend from a foreign company and deemed dividend from an Indian company under section 2 (22) (e) are taxable in the hands of shareholders under this head, regardless of the fact whether shares are held by the assessee as investment or as stock in trade.

An Indian company has itself to pay tax on dividend declared by it under section 115-O and its shareholders are exempt from payment of tax in respect of the amount of dividend.

### As per Section 2(22) Dividend Includes

- (a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release of assets by the company to its
- (b) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not
- (c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not
- (d) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated, whether such accumulated profits have been capitalised or not
- (e) any payment by a company, not being a company in which the public are substantially interested, of any sum by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (holding not less than ten per cent of the voting power), or to any concern in which such shareholder is a member or a partner and in which he has a substantial or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits.

**But "Dividend" does not Include**

- (i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets
- (ii) any advance or loan made to a shareholder or the said concern specified in Sec 2(22)(e) by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company
- (iii) any dividend paid by a company which is set off by the company against any sum previously paid by it and treated as a dividend within the meaning of Sec 2(22)(e), to the extent to which it is so set off
- (iv) any payment made by a company on buy back of shares
- (v) any distribution of shares pursuant to a demerger.

accumulated profits For Sections 2(22) (a),(b),(d) and (e), accumulated profits shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub-clause (c) shall include all profits of the company up to the date of liquidation, but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government, include any profits of the company prior to three successive previous years immediately preceding the previous year in which such acquisition took place.

**Taxation of Dividends**

- (i) Dividends from Indian company are exempt in the hands of shareholder by virtue of Section 10(34). In such cases the company shall pay dividend tax under Section 115-O at 15% + cess.
- (ii) Deemed dividend under Section 2(22)(e) is taxable in the hands of shareholder under 'Income from Other Sources.' In such case the company shall not pay dividend tax under Section 115-O.
- (iii) Dividends from foreign company are also taxable in the hands of shareholder under 'Income from Other Sources.'

**Winning from Lotteries, Crossword Puzzle, Horse Race**

If receive money from winning the lottery, Online/TV game shows etc., it will be taxable under the head Income from other Sources. The income will be taxable at **the flat rate of 30%** which after adding cess will amount to 30.9%.Incomes from falling sources come under this category:

- Lottery
- Game Show or any entertainment program on television or electronic mode
- Crossword Puzzle
- Gambling or betting
- Races including Horse races.

**TDS Applicability**

If the Prize money exceeds Rs 10, 000, then the winner will receive the prize money after the deduction of TDS @30.9% u/s 194B.It does not matter whether the income of the winner is taxable or not. The prize distributor is liable to deduct tax at the time of payment. In the case of winnings from horse races, TDS will be applicable if the amount exceeds Rs 5,000.

**No Deduction/Expenditure is Allowed from such Income**

No deduction u/s sec 80C or 80D or any other deduction/allowance is allowed from such income. **The Benefit of basic exemption limit and income tax slab rate is also not applicable to this income.** The entire amount received will be taxable at the flat rate of 30.9%.

## **Gift and Prize**

From the taxation point of view, gift can be classified as follows :

1. Any sum of money received without consideration, it can be termed as 'monetary gift'.
2. Specified movable properties received without consideration, it can be termed as 'gift of movable property'.
3. Specified movable properties received at a reduced price (i.e. for inadequate consideration), it can be termed as 'movable property received for less than its fair market value'.
4. Immovable properties received without consideration, it can be termed as 'gift of immovable property'.
5. Immovable properties acquired at a reduced price (i.e. for inadequate consideration), it can be termed as 'immovable property received for less than its stamp duty value'.

Tax treatment of monetary gifts received by an individual or Hindu Undivided Family (HUF)

If the following conditions are satisfied then any sum of money received without consideration (i.e., monetary gift may be received in cash, cheques, draft, etc.) by an individual/ HUF will be charged to tax:

- Sum of money received without consideration.
- The aggregate value of such sum of money received during the year exceeds Rs. 50,000.

Cases in which sum of money received without consideration, i.e., monetary gift received by an individual or HUF is not charged to tax

In following cases, monetary gift received by an individual or HUF will not be charged to tax:-

### **(1) Money Received from Relatives**

Relative for this purpose means :

- (i) In case of an Individual
  - (a) Spouse of the individual;
  - (b) Brother or sister of the individual;
  - (c) Brother or sister of the spouse of the individual;
  - (d) Brother or sister of either of the parents of the individual;
  - (e) Any lineal ascendant or descendent of the individual;
  - (f) Any lineal ascendant or descendent of the spouse of the individual;
  - (g) Spouse of the persons referred to in (b) to (f).

### **Some Important Point**

- (i) If shares in a closely held company are received by a firm or another closely held company from any person without consideration or for inadequate consideration, the aggregate fair market value of such shares as reduced by the consideration paid, if any, shall be chargeable to tax.

**Note :** Nothing would be chargeable to tax if taxable amount doesn't exceed Rs. 50,000.

- (ii) Income of a minor child (say, interest income) is includible in the hands of the parent whose total income is higher before including minor's income. Such interest income will be included in the hands of the parent under the head "Income from other sources" after providing for deduction of up to Rs. 1,500 under section 10(32).

- (iii) If a closely held public company receives any consideration for issue of shares which exceed the fair market value of such shares, the aggregate consideration received for such shares as reduced by its fair market value shall be chargeable to tax.

**Note :** This provision is not applicable in the following cases.

- (iv) Where the consideration for issue of shares is received by a venture capital undertaking from a venture capital company or venture capital fund.

- (v) Where the consideration for issue of shares is received by company from class or classes of person as notified by the Government.
- (vi) Any sum received by an employer from his employees as contribution towards PF/ESI/ Superannuation Fund etc., if same is not deposited in the relevant fund and it is not taxable under the head 'Profits and Gains from Business or Profession'.
- (vii) Interest on securities, if not taxable under the head 'Profits and Gains of Business or Profession'
- (viii) Income from machinery, plant or furniture belonging to taxpayer and let on hire, if income is not chargeable to tax under the head 'Profits and Gains of Business or Profession'
- (ix) Composite rental income from letting of plant, machinery or furniture with buildings, where such letting is inseparable and such income is not taxable under the head 'Profits and Gains of Business or Profession'
- (x) Any sum received under Keyman Insurance Policy (including bonus), if not taxable under the head 'Profits and Gains of Business or Profession' or under the head 'Salaries'
- (xi) Any compensation received by a person in connection with the termination of his employment or modification of terms and conditions relating thereto.
- (xii) Interest received on compensation or enhanced compensation
- (xiii) Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset shall be charged to tax under this head, if :
  - (a) Such sum is forfeited; and
  - (b) The negotiations do not result in transfer of such capital asset.

### Deduction

The following expenditures are allowed as deductions from income chargeable to tax under the head 'Income from Other Sources'.

S.N.	Section	Nature of Income	Deduction allowed
1	57 ( i)	Dividend or Interest on securities	Any reasonable sum paid by way of commission or remuneration to banker or any other person for purpose of realizing dividend (other than dividends referred to in section 115-O) or interest on securities
2	57(ia)	Employee's contribution towards Provident Fund, Superannuation Fund, ESI Fund or any other fund setup for the welfare of such employees	If employees' contribution is credited to their account in relevant fund on or before the due date
3	57(ii)	Rental income letting of plant, machinery, furniture or building	Rent, rates, taxes, repairs, insurance and depreciation etc.
4	57(iia)	Family Pension	1/3 <sup>rd</sup> of family pension subject to maximum of Rs. 15,000.
5	57 ( iii)	Any other income	Any other expenditure (not being capital expenditure) expended wholly and exclusively for earning such income
5	57 ( iii)	Any other income	Any other expenditure (not being capital expenditure) expended wholly and exclusively for earning such income
6	57 (iv)	Interest on compensation or enhanced compensation	50% of such interest (Certain Condition)
7	58(4) Proviso	Income from activity of owning and maintaining race horses.	All expenditure relating to such activity.

### Expenses on Deductible

- Personal expenses
- Interest chargeable to tax which is payable outside India on which tax has not been paid or deducted at source
- 'Salaries' payable outside India on which no tax is paid or deducted at source
- Wealth-tax
- Expenditure of the nature specified in Section 40 A
- Expenditure in connection with winnings from lotteries, crossword puzzles, races, games, gambling or betting

### Set-Off and Carry Forward Losses

Section	Provision	Exception
70	<b>Inter sources set off under in head of income</b> Any loss in respect of one sources shall be set off against income from any other sources under the same head of income.	(1) Loss from Speculative business (2) Loss from Specified business under section 35AD (3) Long term Capital loss (4) Loss from activity of owing and maintaining race horse.
71	<b>Inter head Adjustment</b> Loss under one head of income can be set- off Against income assessable under any head of income	(1) Loss under this head profit and gains of business or profession cannot be set-off against income under the head salary. (2) Loss under the head capital gains cannot be set-off against under any other head. (3) Speculation loss and loss from the activity the owing and maintaining race horse cannot be set – off against under any other head.

### Carry Forward and Set-Off Brought Forward Losses

Section	Nature of loss to be carried forward	Income against which the brought forward losses can be set-off	Maximum Permissible period (From the end of the relevant assessment year ) for carry forward of losses
71B	Unabsorbed loss form house property	Income from House Property	8 Assessment Year
72	Unabsorbed Business Loss	Profit and gains from business profession	8 Assessment Year
73	Loss from Speculation Business	Income from speculation business	4 Assessment Year
73A	Loss from Speculation Business under section 35 AD	Profit from any Specified business	Identified Period
74	Long term Capital Loss	Long term Capital Gain	8 Assessment Year
	Short term Capital loss	Short term/ Long term capital gain	8 Assessment Year
74A	Loss from activity of owing and maintaining horse race	Income from the activity owing maintain race horse.	4 Assessment Year

### Order Set of Losses

- Current year Depreciation / Current year capital expenditure on scientific research and current year expenditure on family planning to the extent allowed.
- Brought forward loss from business profession (Sec. 72 (1))
- Unabsorbed bed Dep. (Sec) 32 (1)
- Unabsorbed Capital Expenditure on Scientific Research (Sec.35 (4))
- Unabsorbed Expenditure on Family Planning (Sec.(36(1)(ix))

### Clubbing of Income

Section 60 is applicable if the following conditions are satisfied:

- The taxpayer owns an asset
- The ownership of asset is not transferred by him.
- The income from the asset is transferred to any person under a settlement, or agreement.

If the above conditions are satisfied, the income from the asset would be taxable in the hands of the transferor

### (B) Revocable Transfer Of Assets (Sec 61)

'Revocable transfer, means the transferor of asset assumes a right to re-acquire asset or income from such an asset, either whole or in parts at any time in future, during the lifetime of transferee. It also includes a transfer which gives a right to re-assume power of the income from asset or asset during the lifetime of transferee.

If the following conditions are satisfied section 61 will become applicable.

- An asset is transferred under a "revocable transfer",
- The transfer for this purpose includes any settlement, or agreement

Then any income from such an asset is taxable in the hands of the transferor and not the transferee (owner).

**Note :** In the case of irrevocable transfer of asset, the income from such assets will be deemed to be the income of the transferee (To whom the asset has been transferred), provided that the transfer is not for the benefit of the spouse of the transferor.

### (C) Income of Spouse

The following incomes of the spouse of an individual shall be included in the total income of the individual:

#### (i) Remuneration from A Concern In Which Spouse Has Substantial Interest

**Concern :** Concern could be any form of business or professional concern. It could be a sole proprietor, partnership, company, etc.

**Substantial Interest :** An individual is deemed to have substantial interest, if he /she (individually or along with his relatives) beneficially holds equity shares carrying not less than 20 per cent voting power in the case of a company or is entitled to not less than 20 percent of the profits in the case of a concern other than a company at any time during the previous year.

If the following conditions are fulfilled this section becomes applicable

- If spouse of an individual gets any salary, commission, fees etc (remuneration) from a concern.
- The individual has a substantial interest in such a concern.
- The remuneration paid to the spouse is not due to technical or professional knowledge of the spouse.
- Then such salary, commission, fees, etc shall be considered as income of the individual and not of the spouse.

Where both the husband and wife have a substantial interest in a concern and both are in receipt of the remuneration from such concern both the remunerations will be included in the total income of husband or wife whose total income, excluding such remuneration, is greater.

#### (ii) Income From Assets Transferred To Spouse

Income from assets transferred to spouse becomes taxable under provisions of section 64 (1) (iv) as per following conditions :

- The taxpayer is an individual
- He/she has transferred an asset (other than a house property) The asset is transferred to his/her spouse
- The asset is transferred without adequate consideration. Moreover there is no agreement to live apart.

If the above conditions are satisfied, any income from such asset shall be deemed to be the income of the taxpayer who has transferred the asset.

#### When Section 64(i) (iv) is not Applicable

On this basis of the aforesaid discussion and judicial pronouncements, section 64 is not applicable in the following cases :

- If assets are transferred before marriage.
- If assets are transferred for adequate consideration.
- If assets are transferred in connection with an agreement to live apart.
- If on the date of accrual of income, transferee is not spouse of the transferor.
- If property is acquired by the spouse out of pin money (i.e. an allowance given to the wife by her husband for her dress and usual household expenses).

#### (D) Income from Assets Transferred to Son's Wife

Income from assets transferred to son's wife attract the provisions of section 64 (1) (vi) as per conditions below :

- The taxpayer is an individual.
- He/she has transferred an asset after May 31, 1973. The asset is transferred to son's wife.
- The asset is transferred without adequate consideration.

In the case of such individuals, the income from the asset is included in the income of the taxpayer who has transferred the asset.

#### (E) Income from Assets Transferred to a Person for The Benefit of Spouse

Income from assets transferred to a person for the benefit of spouse attract the provisions of section 64 (1) (vii) on clubbing of income. If :

- The taxpayer is an individual.
- He/she has transferred an asset to a person or an association of persons. Asset is transferred for the benefit of spouse.
- The transfer of asset is without adequate consideration.

In case of such individuals income from such an asset is taxable in the hands of the taxpayer who has transferred the asset.

#### (F) Income from Assets Transferred to a Person for The Benefit of Son'S Wife

Income from assets transferred to a person for the benefit of son's wife attract the provisions of section 64 (1) (vii) on clubbing of income. If :

- The taxpayer is an individual.
- He/she has transferred an asset after May 31, 1973.

The asset is transferred to any person or an association of persons. The asset is transferred for the benefit of son's wife.

- The asset is transferred without adequate consideration.

In case of such individual, the income from the asset is included in the income of the person who has transferred the asset.

#### (G) Income of Minor Child

All income which arises or accrues to the minor child shall be clubbed in the income of his parent (Sec. 64(1A), whose total income (excluding Minor's income) is greater. However, in case parents are separated, the income of minor will be included in the income of that parent who maintains the minor child in the relevant previous year.

#### Exemption to Parent

An individual shall be entitled to exemption of Rs. 1,500 per annum(p.a.) in respect of each minor child if the income of such minor as included under section 64 (1A) exceeds that amount. However if the income of any minor child is less than Rs. 1,500 p.a. the aforesaid exemption shall be restricted to the income so included in the total income of the individual.

#### When Section 64(1A) is not Applicable

In case of income of minor child from following sources, the income of minor child is not clubbed with the income of his parent.

- Income of minor child on account of any manual work.
- Income of minor child on account of any activity involving application of his skill, talent or specialized knowledge and experience.
- Income of minor child (from all sources) suffering from any disability of other point.

#### Deduction from Gross Total Income

##### Deduction to be Made

The Total Income of an assessee is to be computed after making deductions 80c to 80u. However, the aggregate amount of deductions cannot-exceeds GTI.

#### 1. Deductions in Respect Pension Fund Certain Payments (80-C)

- (1) Life Insurance Premium, Contribution to P.F. Annuity, subscription equity etc.
  - (i) Assessee
    - (a) Individual
    - (b) HUF
- (2) Deduction is available only in respect of 'specified sums'. Actually, paid or deposited during the p.y. (sum not actually paid and outstanding is not allowed)
- (3) Deduction maximum limit of 1,50, 000
- (4) Specific sums
  - (i) Life Insurance Premium
    - (a) On Life of Individual, spouse, and any wild of such Individual and Member of HUF.
    - (b) Only up to 10% of actual sum assured at is 1-4-2012 shall qualify for deductions.
- (5) Deferred annuity plan  
Not being notified annuity plan of life or any other insures on Life of Individual or his spouse and any child If there is no option under the contract to receive cease in lieu of annuity.
- (6) Deferred annuity plan from salary of govt. employers.

- (7) Contribution to SPF/RPF  
Contribution to any fund shall-not include any sum in repayment of loan.
- (8) Contribution to PPF (Public Provident Fund)
- (9) Subscription to national saving certificate (NSC) VIII issue or other Notified saving certificate.
- (10) Annuity Plans
- (11) Subscription to units U.T. I. or Mutual fund.
- (12) Contribution deposit scheme or pension fund of National housing bank.
- (13) Subscription Notified Deposit Scheme.
  - (i) Any Public-sector housing, Finance Company
  - (ii) Any housing developing authority or city/town/village.
- (14) Tuition Fees  
Excluding any development-fees or donation or payment of similar Paid on admission To any university, college, school or other educational situated with in India. for the purpose of full time education of any two children of and individual.
- (15) Repayment of housing Loan  
For purchase or construction of residential house property of way
  - (i) Installment or part payment.
  - (ii) Repayment of loan borrowed
  - (iii) Stamp duty, Registration fee and other purchase of house payments not eligible for deduction.
    - (a) Admission fee cost of share and initial deposit which a shareholder/member of company or co-operative society has to pay for becoming such shareholder or member.
    - (b) Cost of any addition/Renovation/ repair of house Property after issue of completion certificate.
- (16) 5-year FDR Basic  
Term deposit for a fixed period of 5 years more schedule Basic.
- (17) Modified Bonds of NABARD.
- (18) Deposit under senior citizen saving scheme Rules 2004
- (19) 5 years FDR of post office.
- (20) Equity, share, Rebuses, units etc of Infrastructure.

## 2. Contribution to Certain Pension Fund (80 CCC)

- (1) Individual
- (2) Conditions: Amount paid or deposited in Previous year.

Out of his income chargeable to tax to effect or keep in force a contract for any annuity plan of LIC or any other insurance.

For receiving pension from the fund in sec 10 (33 AAB)

### Deduction :

- (1) Amount so paid or deposited (excluding invest/bonus/accrued or credited) or
- (2) 1.50.000 (which- ever is lower)

## 3. Contribution to Pension Scheme of Central Govt. or Any Other Employer (Sec 80 CCD)

- (1) Individual exported by output govt. or any other employer after 1.1.2004.
- (2) Deduction in respect of :
  - (a) SUM deposited by assess in his account in notified pension scheme.
  - (b) Contribution made by output govt. or any other employer to assess account

Deposited by asseses to credit a/c or 10% of salary (Which is lower)xx

**Add :** SUM contribution by employer in asseses or 10% of

Salary (whenever) is Less	X X
Total revenue of deduction	<u>XXX</u>

Salary s Basic Pay + D.A. (It – term)

#### **Limit and Deduction (Deduction 80 CCE)**

(Deduction 80 -C, 80- CCE, 80-CCD) shall not exceed 1.50.000 (Excluding employers contribution to pension scheme).

#### **4. Investment under an Equity Saving Scheme (80 CCG)**

- (1) Individual residual in India
- (2) In previous year acquired listed equity those or listed units of oriented fund by central govt. in this behalf.
- (3) Deduction Amount
  - (a) 50% of the amount inverse such equity those or wits
  - (b) 25000 [whichever is Less]
- (4) Period of deductions
  - 3 Beginning with Assessment year relevant to previous year in which the listed equity those or listed units of equity-oriented fund were first acquired.
- (5) Conditions
  - (a) GTI (Gross Total Income) of assess for relevant A.y. should not exceeds 12,00,000
  - (b) The assesee is a new retail investor as may be specified under the scheme notified in this behalf.
  - (c) The investment is made in such hired equity share or listed units of equity-oriented fund.
  - (d) The investment is locked in for a period of 3 years form the date of acquisition in accordance with notified scheme.

#### **5. Medical Insurance Premium (80-D)**

- (1) Individual and HUF
- (2) Deduction amount
  - (a) Up to 25,000
  - Or
  - (b) Senior citizen up to 30,000

Senior r citizens mean individual resident in India who is of age 60 years or more.

Amount paid for preventive health, cheek, shall be allowed us deduction is paid in cost 5,000 maximum allowed deduction.

#### **6. Medical Treatment of a Dependent Disability Person (80 DD)**

- (1) (a) Resident in India
- (b) individual or H.U.F.
- (2) Deduction in respect of
  - (a) Expenditure for medical treatment/Nursing/Training/Rehabilitation or
  - (b) Amount paid under LIC/U.T.I. approved by CBDT for manufacture of a dependent person which disability.
- (3) Dependent Means
  - (a) Spouse, Children, Parents, with disability

- (b) Any member of HUF  
Who is dependent-wholly or mainly on such' Individual/HUF for his support and maintenance  
not-claim any deduction u/s 80 U
- (4) Deduction amount
  - (a) 75,000 always
  - (b) 1,25,000 (disability 80% of more)
- (5) The assesses claiming a deduction u/s shall furnish a course of certificate issued by medical authority in prescribed manner along with return of income u/s 139 in respect of p.y. for which deduction is claimed.

#### 7. Medical Treatment (Sec 80 DDB)

- (1) (a) Residual in India
- (b) Individual or HUF
- (2) Deduction in respect of
  - (a) In case of individual himself or spouse, children, parents, brother and sisters
  - (b) In case HUF members. Prescribed, are neurological, diseases, cancers
- (3) Deduction amount
  - (a) Actually paid  
Or
  - (b) 40,000 (Which ever- is lower)  
(60,000 in case of senior citizen)
- (4) Deduction allowable only if certificate furnished.

#### 8. Interest on Loan for Higher Education (Sec 80 E)

- (1) Individual
- (2) For higher education of his relative  
Relative means individual, spouse and children only.
- (3) Deduction: 100% of amount of output on such loans for 8 A.y. starting from assessment year in which or interest was first repaid until interests on such Loan is fully repaid.  
Higher educating means full time studies Graduate course in engineering, medical, management.

#### 9. Interest on Loan Sanctioned for Acquiring Residential House Property (80 EE)

- (1) Individual only
- (2) Purpose for which deduction is allowed on account of interest payable on loan taken for individual form any financial institution for purpose of acquisition of residential house provide certain conditions.
- (3) Conditions to be satisfied
  - (a) The Loan is sanctioned by financial institution during the acquisition period beginning on 1.4.2013 and ending on 31.3.2014.
  - (b) Residential house property does not exceed 25,00,000
  - (c) Value of house property does not exceed 40,00,000
  - (d) The assesses does not own any residential house property on deal of sanction loan.

#### 10. Deductions to Certain Fund, Charitable, Institution etc. (80 G)

Donations eligible for deduction without any qualifying amount

- (1) **100% Deduction**
  - (a) Prime minister national relief fund.
  - (b) America Earthquake relief fund.
  - (c) Africa (public constitution India) fund

- (d) National foundation for communal harmony
- (e) National illness assistance fund
- (f) National culture fund setup by govt.
- (g) Gujarat Govt. earthquake Relief fund.
- (h) National defense fund set up by govt.
- (i) Maharashtra chief minister earthquake relief fund.
- (j) Zila sakshrtu fund
- (k) In approval university or other educational institution
- (l) National Blood Transfusion council or any state Blood Transfusion Council
- (m) Andhra Pradesh chief-ministers cyclone relief fund.

**(2) 50% Deduction will be Allowed**

- (a) Jawaharlal Nehru Memorial fund
- (b) Indira Gandhi Memorial Trust
- (c) Rajiv Gandhi foundation
- (d) Prime-Minister's drought-relief fund
- (e) National children fund.

**(B) Donation Eligible for Deduction to Qualifying Output**

- (i) 100% deduction to qualifying output
  - (a) Govt. or any approved local authority institution or association to be utilized for promoting family planning.
  - (b) by company to Indian Olympic association or other notified association/institution in India, for development of infrastructure, for sports, games, or sponsorship.
- (ii) 50% deduction to Qualifying output
  - (a) Govt. or local authority for charitable purpose except promoting family planning.
  - (b) To approved charitable institution which satisfies conditions of sec. 80 (4) (5).
  - (c) For renovation or repair any purpose, mosque, Gurudwara, Church
  - (d) To housing development authority or city/town/village, development, authority constituted in India.

**Qualifying Amount**

10% Adjusted GTI.

Or

Total of amount- [Whichever is four

**Adjusted GTI**

GTI	x
(-) Deduction permissible u/s 80C to 80U	xx
(-) Long term capital gain	xx
(-) Short Income on which Income or not payable	xx
(-) Income referred 115, 115AB, 115 AC, 115 AD	xx

(This sec. related income of NRI)

**11. Deduction is Respect Rent Paid (80 GG)**

- (1) Individual who is not in receiving of any HRA.
- (2) Rent actually paid for any furnished or unfurnished residential accommodation occupied by assessee.

- (3) Deduction Output
  - (a) 2000 per month
  - (b) 25% of Gross Total income.
  - (c) Rent paid less 10% of Gross Total Income

**12. Donation for Scientific Research or Rural Development. (80 GGA)**

- (1) All persons cause GTI does not include income chargeable under the head profit a Gains.
- (2) Deduction in respect of
  - (i) Scientific researcher university, college, or approved sec 35 (i) (ii).
  - (ii) University, college other institution approved sec 35 (i) (iii) for use in social science researcher or statistical person.
  - (iii) National Rural development fund or National urban poverty education fund u/s 35 CCA.
  - (iv) Association/Institution undertaking any rural development u/s 35 CCA.
  - (v) Public sector authority or an institution approved by National committee.
- (3) Deduction amount.  
100% of paid
- (4) If deduction u/s is claimed and allowed for any assessment year then no deduction shall be allowed any other provisions.

**13. Contribution given by Any Person to Political Party (80 GGC)**

100% amount contribution

No deduction shall be allowed under this section of any contributed by way of cash.

**14. Engaged in Business of Collecting and Processing of Bio gradable waste (80 JJA)**

- (1) Collecting
- (2) Processing
- (3) Treating

Business of collecting and processing treating of Bio gradable waste for :

- (i) Generating power
- (ii) Producing Bio fertilizers, bio Pesticides, or other Biological output
- (iii) Producing bio gas.
- (iv) Moving pillars for fuel.
- (v) Organic Manger

**Deduction :** 100% profit.

**15. Employment of New Workman (Sec 80 JJAA)**

- (1) Indian company  
Profit and gains from any industrial engaged in Manufacture of production of article or thing.
- (2) Deduction : 30% of additional wages paid to New Regular workman employed by asseses in P.Y. for 3 A.Y. including such employment provided.
- (3) Additional wages :  
Paid to New Regular workman employed during year and first 10 workman employed in undertaking.
- (4) New Regular work-man not include.
  - (a) Casual workman
  - (b) Contract labour
  - (c) Any other work-man employed for Less than 300 days during the p.y.

- (5) Total no. of work-man employed (New work amount existing work-mans) should be more than 100.
- (6) Meaning of additional ways :
  - (a) In case of New factory wages paid to New Regular work-man in excess of 100 work-man employed during p. y.
  - (b) In case of existing Factory

Wages paid to New Regular work-man employed in excess of 100 work-man employed during in p.y.

Additional wages shall be Nil if No. of Increase of Regular work-man employed during is Less than 10% of existing No. of employed in such factory on Less day p.y.

#### 16. Off Shore Banking Units and International Financial Service (80-LA)

- (a) A schedule Bank or any foreign Bank having an off-shore Building units in SEZ.
- (b) A unit of International Financial service.

##### Deduction :

- (i) 100% of eligible Income for 5 consecutive A.Y. starting with A. y. relevant to, p. y. in which permission to operate such will
- (ii) Thereafter 50% of eligible income for next 4 consecutive A.Y.

**Conditions :** Deduction is only if assesses tourism along with selection of Income.

- (a) A report-from an account in Prescribed form, certifying
- (b) A copy of permission obtained under banking Regulation act 1949.

#### 17. Co-operative Society (80 P)

- (1) A co-operative society
- (2) Eligible Income for Deduction
  - (a) 100% of profits attributable.
    - (i) Carrying on business of banking or providing credit facility to its members.
    - (ii) A cottage Industries.
    - (iii) Marketing of agriculture product by its members
    - (iv) Purchase of agriculture implements, seeds, livestock, or other circle for a agriculture for purpose of supplying product by its members.
    - (v) Processing without the aid of power of the agriculture produce if its member.
    - (vi) Collective disposal or the labour of its member.
    - (vii) Fishing or allied activities such as curing, processing, storing or marketing of fish or purchase or material and equipment.
  - (b) 100% of profits or a Primary society from business of supplying Milk, oilseeds, fruit, vegetable by its members
    - (i) A federal co-operative society, wagged in supplying milk, oilseeds fruits, or vegetables or
    - (ii) Govt. of Local authorities or
    - (iii) A govt. company or a stationary corporation engaged in supplying milk, oilseeds, fruits, vegetables, or

#### 18. Royalty Income etc. or Author Certain Books other than Text Book (80QCB)

- (1) Residential Individual.
- (2) Eligible Income
  - (i) Lump sum consideration or growth in copyright of any book a work of library, artistic, or scientific Nature.
  - (ii) Royalty in copyright fees.

(3) Books shall not include franchise, diaries, guides, journals, margarine, Newspaper, pump lets Text books and other publication of similar nature.

(4) Deduction :  
100% of such eligible Income  
Or  
3.00.000 [Which-ever is lower]

**Note :** Where such eligible income is not a lump sum consideration in lieu of all right of assesses in books then for calculating the deduction u/s the amount of so much of eligible income shall be considered does not exceeds 15% of value of books sold during p.y.

Income qualifying for deduction following

(i) 15% of value of books sold during p.y.  
or  
(ii) Eligible income (before allowing any attributable exp.)

#### 19. Royalty on Packets (Sec 80 RRB)

(1) Resident in India  
Or  
Patent-should registered under Patent act- 1970.

(2) Deduction :  
(i) 100% of such income  
Or  
3.00.000 (whichever is lower)

#### 20. Interest on Deposit in During Accounts to Exempt -10,000 (Sec 80 TTA)

(1) (a) Individuals  
or  
(c) HUF  
Includes any income by way of interests on deposits in a saving account with  
(a) A banking company to which balancing Regulation act 1949  
(b) A co-operative society engaged in business of building  
(c) A post-office

(2) Deduction:- up to 10.000  
In post office – Simple person a/c – 3500  
Joint a/c – 7000

#### 21. Person with Disability (80-U)

(1) Individual Residential in India  
Two at-any time during P. Y. is certified by medical authority to be disability.

(2) Deduction  
75,000

In case More than 80 % disability 1,25,000

#### Computation of Taxable Income of Individual and Firms

Income-tax is a tax levied on the total income of the previous year of every person. The levy of income-tax is, therefore, on the total income of the assessee. The total income has to be computed as per the provisions of the Income-tax Act, 1961 in the following manner.

## Ascertain Residential Status

- (i) In case of an individual, the number of days of his stay in India during the relevant previous year and/or the earlier previous years would determine his residential status.
- (ii) An individual/HUF can be either a – Resident and ordinarily resident Resident but not ordinarily resident Non-resident
- (iii) Persons, other than an individual and HUF, can be either resident or non-resident.
- (iv) An Indian company is resident in India. The determining factor for every other assessee is the place where the control and management of its affairs are situated during that year i.e., whether in India or outside India.
- (v) The residential status of a person determines the scope of his taxable income.

For example, income which accrues outside India and is received outside India is taxable in the hands of a resident and ordinarily resident but is not taxable in the case of a non-resident.

## Exclude Income Which do not Part of Total Income

- (i) Exclude income which do not form part of total income, like, agricultural income, dividend income from domestic companies, etc.  
These income are wholly exempt from tax
- (ii) Certain income are excluded from total income subject to limits, like house rent allowance, leave encashment etc. In such cases, the exempt portion has to be excluded and the remaining amount has to be included under the respective head of income.
- (iii) Section 10 of the Income-tax Act, 1961 provides for the exclusions from total income.  
Identify and Group income, under the respective head

There are five heads of income, namely :

- Salaries,
- Income from house property
- Profits and gains of business or profession
- Capital Gains
- Income from other sources
  - (a) The income of a person should be identified and grouped under the respective head of income.
  - (b) Each head of income has a charging section (for example, section 15 for salaries, section 22 for income from house property).
  - (c) Deeming provisions are also contained under certain heads, by which specific items are sought to be taxed under those heads.  
For example, if bad debts allowed as deduction in an earlier year is recovered in a subsequent year, then the amount recovered would be deemed as business income of the person in the year of recovery.
  - (d) The charging section and the deeming provisions would help you to determine the scope of income chargeable under a particular head.

## Compute the Income under Each Head

- Assess the income under each head by :  
Applying the charging and deeming provisions, excluding the specific exemptions provided for in section 10 relating to that head, subject to the limits specified therein, allowing the permissible deductions under that head, and disallowing the non-permissible deductions.
- For example, while computing net consideration for capital gains, brokerage is a permissible deduction from gross sale consideration but securities transaction tax paid is not permissible.

### Allow deductions Permissible from Gross Total Income

Certain deduction are allowable from gross total income to arrive at total income. These deductions contained in Chapter VI-A can be classified as :

### Deduction in Respect of Certain Payments, for Example for Individual/HUF

Section	Nature of Payment/Deposit
80C	Payment of life insurance premium, tuition fees of children, deposit in public provident fund, repayment of housing loan etc.
80D	Medical insurance premium paid by an individual/HUF for the specified persons/ contribution to CGHS etc
80E	Payment of interest on educational loan taken for self or relative
80QQB	Royalty income of authors of certain books other than text books
80RRB	Royalty on patents
80TTA	Interest on savings account with a bank, co-society and post office

Other Deductions – Deduction under section 80U in case of a person with disability There are limits in respect of deduction under certain sections. The payment/income are allowable as deduction subject to such limits. For example, the maximum deduction under section 80RRB is Rs. 3 lakhs.

### Computation of Taxable Income of Firms

#### As Per Section 2(23)

the terms 'FIRM', and 'PARTNERSHIP' have the same meanings respectively, assigned to them in the Indian Partnership Act, 1932 and includes a Limited Liability Partnership as defined in the Limited Liability Partnership Act, 2008;

(It shall also include a minor who has been admitted to the benefits of Partnership).

- Partnership as per section 4 of the Indian Partnership Act, 1932 is defined as relationship among persons who have agreed to share the
- Profits of a business carried on by all or any of them acting for all.
- The persons who have entered into partnership are called partners individually and collectively it is a firm.
- The business is carried on in the name of the firm and it is taxed as a separate entity.
- The share of profit of the partners is not taxable in the hands of the partners (as the profit from the business is to be taxed in the hands of the firm).
- Any remuneration (salary, bonus or commission) paid / payable to the partners is allowed as a deduction to the firm (subject to conditions) and so the same are taxable in the hands of the partners (not under the head 'salaries').
- The firm can claim deduction towards payment of interest, if any, to any of the partners not exceeding 12% p.a. and this interest amount is taxable in the hands of the partners.
- Payment of remuneration and interest is deductible if the conditions laid down in sections 184 and 40(b) are satisfied.

#### (i) Conditions as Per Section 184 are as Follows

1. The partnership should be evidenced by an instrument in writing;
2. The shares of each partner should be specified in such instrument;
3. A copy of the partnership instrument as certified by all the partners should be enclosed with a return of income in respect of the first assessment year;
4. If there is a change in the constitution of the firm, certified copy of the revised instrument should be filed along with the return of income of the year in which such change has taken place;

5. There should not be any failure in terms of section 144.

**Note:** If these conditions are not satisfied, payments made by the firm like salary, remuneration, interest, bonus, commission etc. will not be allowed.

**(ii) Conditions as per Section 40(b) are as Follows**

A. Remuneration paid to partners shall be allowed (in the hands of the firm) if the following conditions are satisfied:

- (i) It should be authorized by and in accordance with the partnership deed;
- (ii) It should relate to the period falling after the date of the partnership deed;
- (iii) It should be within the prescribed limits. The limit is given below.

Book Profit	Remuneration Admissible
On the first Rs. 3,00,000 or in case of a loss	Rs. 1,50,000 or 90% of book profit whichever is more
On the balance	60% of book profit

- (iv) It should be paid to a working partner. (Working partner means who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner).

B. Interest paid to partners shall be allowed (in the hands of the firm) if the following conditions are satisfied:

- (i) It should be authorized by and in accordance with the partnership deed;
- (ii) It should relate to the period falling after the date of the partnership deed;
- (iii) It should be restricted to 12% p.a. simple interest, if it is more

### Computation of Agricultural Income

Agricultural income earned by a taxpayer in India is exempt under Section 10(1). Agricultural income generally means:

#### Agricultural Income Generally Means

- (a) Any rent or revenue derived from land which is situated in India and is used for agricultural purposes.
- (b) Any income derived from such land by agriculture operations including processing of agricultural produce to render it fit for the market or sale of such produce.
- (c) Any income attributable to a farm house subject to satisfaction of certain conditions specified in this regard in section 2(1A).
- (d) Any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.

#### Tax on Sale of Agriculture Land

An agricultural land in rural India does not form part of the definition of a capital asset and hence, there will be no capital gains on the sale of such land. Please check the municipal records(municipality) to ascertain whether agricultural land is rural or urban.

#### Agricultural Income is Considered for Rate Purposes

Agricultural income is considered for rate purposes while computing the income tax liability, if following two conditions are cumulatively satisfied.

- Net Agricultural income exceeds Rs. 5,000/- for previous year, and
- Total income, excluding net Agricultural income, exceeds the basic exemption limit.

Once the aforementioned conditions are satisfied then we shall compute the Tax liability in the following manner:

**First,** include the Agricultural income while computing your income Tax liability.

**Example :** Let us say that an Individual Assessee has a Total income of INR 7,50,000/- (excluding Agricultural income) and a Net Agricultural income of INR 100,000/-. Then, per this step, Tax shall be computed on INR 7,50,000/- + INR 1,00,000/- = INR 8,50,000/-. *Thus, income Tax amount as per this step shall be INR 95,000/- for an individual who is below the age of 60 Years.*

**Second,** add the applicable basic tax slab benefit, as applicable, to the Net Agricultural income. Thus, per our example mentioned above, we shall add INR 2,50,000/- to INR 1,00,000/- as the applicable Tax slab benefit available to an individual below 60 Years of age is INR 2,50,000/-. *Now we will compute income Tax on INR 3,50,000/- (Tax slab benefit 2,50,000 + Net Agricultural income 1,00,000). The amount of Tax shall be INR 10,000/-.*

**Third,** subtract the Tax computed in Second step from the Tax computed in First step = INR 85,000/-. Thus, this is the income Tax liability subject to deductions, Education Cess etc., as applicable.

This process of computation is, however, followed only if the assessee's non-agricultural income is in excess of the basic exemption slab.

### Income Tax Return

If the aggregate agricultural income of the assessee is up to Rs. 5,000/- disclose the agricultural income in the income tax return (ITR) But if the agricultural income exceeds Rs. 5,000, then form ITR 2 applies.

### Tax Deduction of Sources/Tax Collection of Sources (TDS/TCS)

#### TCS Rates for Financial Year 2017-18 (A Y 2018-19)

Alcoholic Liquor for Human Consumption	1%
Tendu Leaves	5%
Timber obtained under a forest lease or other mode	2.50%
Any other forest produce not being a Timber or tendu leave	2.50%
Scrap	1%
Packing lot, toll plaza, mining & quarrying	2%
Bullion : Sale consideration received in cash exceeding Rs. 2,00,000/-	1%
Jewellery : Sale consideration received in cash exceeding Rs. 5,00,000/-	1%
Other Service/goods: Sale consideration received in cash exceeding Rs. 2,00,000/-	1%
Motor Vehicle : Sale consideration received in cash exceeding Rs. 10,00,000/-	1%
Purchase of coal lignite, Iron ore by a trader	1%

### Points to be Considered

- Surcharge and Education Cess will not be considered for the purpose of TDS except in case of TDS on salary payment.
- Higher rate of TDS for not furnishing correct PAN @ 20%.
- Higher rate of TCS for not furnishing correct PAN @5% or twice of applicable rate whichever is higher.
- Form 15G/ 15H received for non deduction of TDS (including Nil return) - Now needs to report online on quarterly basis
- Quaterly Statement of TDS      31st July;    31st Oct;    31st Jan;    31st May

6. Deposition of TDS / TCS
  - TDS – March month – 30th April
  - Other Month 7th of next month
  - TCS – 7th of next month
7. Issue of TDS / TCS certificate – Within 15 Days from the due date of filing of quarterly TDS return Salary certificate in Form-16 upto 15th June of succeeding financial.
8. Fees of Rs. 200/- per day for late filing of TDS and TCS Return.
9. Fail to file TDS return within one year of due date or furnishing incorrect information penalty Rs.10,000/-.
10. Online generation of TDS certificate is mandatory in case of every person whose accounts are required to be audited u/s 44AB.
11. Declaration needs to be obtained while purchasing a software, from the transferor that TDS has been made u/s 194J or u/s 195 on payment for any previous transfer of such software from a resident or non-resident along with PAN, otherwise TDS u/s 194J is required to be deducted.
13. While filing quarterly TDS return, information in respect of cases where no TDS is deducted due to obtaining self declaration or no deduction/ lower deduction certificate u/s 197 received from Income tax department is to be mandatory filed in TDS return.

### **Advance Tax**

Any person having an estimated tax liability of Rs. 10,000 or more in a year is required to pay tax in advance. This payment of tax in advance and in installments is known as advance tax payment. Section 208 of the Income Tax Act deals with advance tax payment and Section 234C of the Income Tax Act deals with delay in remitting advance tax payment. In this article, we look at the due date and procedure for making advance tax payment in India.

Under Section 208 of the Income Tax Act, any person (individual / company / LLP / partnership / Trust) whose estimated income tax liability for the year exceeds Rs.10,000 will be required to remit advance tax payment. Only a Senior Citizen (An individual over 60 years of age) not having income from business or profession is exempted from making advance tax payment.

### **Applicability of Advance Tax Liability**

Advance Tax Liability is applicable on all tax payers, whether salaried, freelancers or businesses. In case of salaried tax payers, if the employer deducted tax at source or TDS then there is no further need of payment of advance tax.

However, if such an assessee has any other income other than salary, then he/she is required to meet advance tax liability for such income. Such incomes may include capital gains on shares or house property, interest on investments, etc. after making appropriate deductions for losses, if any.

### **How to Calculate Advance Tax**

Tax can be computed on the current income (estimated by the taxpayer) at the rates in force during the financial year. Income received in the previous financial year can be taken as the taxable income for the calculation of advance tax liability. In case of businesses and professionals like doctors, lawyers, etc. resident in India, whose gross receipts or turnover of businesses is less than ₹ 2 crore per annum, they are exempted from the mandatory payment of advance tax. They have to pay 100% Advance Tax by 15th March. Such businesses are relieved from maintaining books of accounts. However, they are not allowed to deduct any business income against this business income.

### **Assessment by Income Tax Officer**

In case a taxpayer fails to remit the advance tax or pays advance tax lower than the required amount and has already been assessed by way of regular assessment in respect of the total income of any previous year, then the Assessing Officer can pass an order under section 210(3) requiring him to pay advance tax on his current year's income (specifying the amount of installments in which tax should be paid).

All orders under Section 210(3) for advance tax payment should be sent before the last day of February. On receipt of the order to pay advance tax, if the taxpayer's estimate is lower than the estimate of the Assessing Officer, then the taxpayer can submit his own estimate of current income/advance tax and pay tax accordingly.

### **Due Date for Advance Tax Payment**

The due date for advance payment of tax is as follows :

Taxpayer Type	By 15th June	By 15th September	By 15th December	5th March
All types of taxpayers (other than those who opted for presumptive taxation scheme)	Up to 15% of advance tax	Up to 45% of advance tax	Up to 75% of advance tax	Up to 100% of advance tax
Taxpayers who opted for presumptive taxation scheme	NIL	NIL	NIL	Up to 100% of advance tax

Any tax paid by a taxpayer till 31st March will be treated as advance tax. If the last day for payment of any installment of advance tax is a day on which the banks are closed, then the taxpayer should pay the advance tax on the immediately

### **Filling of Returns**

#### **(A) Assesses Required to File Return of Income Compulsorily 139(1) :**

- (i) Companies and firms (whether having profit or loss or nil income)
- (ii) A person, being a resident other than not ordinarily resident, having any asset (including any financial interest in any entity) located outside India or signing authority in any account located outside India, whether or not having income chargeable to tax
- (iii) Individuals, HUFs, AOPs or BOIs and artificial judicial persons whose total income before giving effect to the provisions of section 10(38) or Chapter VI-A exceeds the basic exemption limit.

Due date of filing return of income

30th September of the assessment year, in case the assessee is:

- (i) a company
- (ii) a person (other than company) whose accounts are required to be audited; or
- (iii) a working partner of a firm whose accounts are required to be audited.

31st July of the assessment year, in case of any other assessee (other than assessees who are required to furnish report under section 92E, for whom the due date is 30th November of the assessment year)

**(B) Return of Loss 139(3) :** An assessee can carry forward or set off his/its losses provided he/it has filed his/its return under section 139(3), within the due date specified under section 139(1).

**Exceptions :** Loss from house property and unabsorbed depreciation can be carried forward for set-off even though return has not been filed before the due date.

**(C) Belated Return 139(4) :** A return of income for any previous year, which has not been furnished within the time allowed u/s 139(1), may be furnished at any time before the :

- (i) End of the relevant assessment year; or
- (ii) Completion of the assessment, **whichever is earlier**

**(D) Revised Return 139(5) :** If any omission or any wrong statement is discovered in a return furnished u/s 139(1) or belated return u/s 139(4), a revised return may be furnished by the assessee at any time before the:

- (i) End of the relevant assessment year; or
- (ii) Completion of assessment, whichever is earlier.

Thus, belated return can also be revised.

**(E) Permanent Account Number (PAN) 139A :** Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions

- (a) in all returns to, or correspondence with, any income-tax authority;
- (b) in all challans for the payment of any sum due under the Act;
- (c) in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue.

For example, sale or purchase of a motor vehicle, payment in cash of an amount exceeding Rs. 50,000 to a hotel against a bill or bills at any one time, etc.

**(F) Quoting of Aadhar Number 139AA :**

- To be quoted by every person on or after 1/7/2017 in the application for allotment of PAN and in Return of Income
- If a person does not have Aadhar Number, the Enrolment ID of Aadhar application form issued to him at the time of enrolment shall be quoted.
- Aadhar Number to be intimated to prescribed authority on or before a date notified by the Central Government.

#### Types of Assessment

- Self-assessment -u/s 140A
- Summary assessment -u/s 143(1)
- Scrutiny assessment -u/s 143(3)
- Best Judgment Assessment -u/s 144
- Protective assessment Re-assessment or Income escaping assessment -u/s 147  
Assessment in case of search -u/s 153A

**(G) Self-Assessment U/s (140 A) :** Where any tax is payable on the basis of any return required to be furnished under section 139, after taking into account :

- (i) the amount of tax, already paid,
- (ii) the tax deducted or collected at source the assessee shall be liable to pay such tax together with interest and fees payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return.

Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fees as aforesaid, the amount so paid shall first be adjusted towards the fees payable and thereafter towards interest and the balance shall be adjusted towards the tax payable.

**(H) Summary Assessment u/s 143(1) :** Assessment under section 143(1) is like initial checking of the return of income. Under this section, Income tax department sent intimation u/s 143(1) to the taxpayer. A Comparative Income Tax computation is sent by the Department. In income tax assessment, total income or loss incurred is computed.

**Time Limit :** Assessment u/s 143(1) can be made within a period of one year from the end of financial year in which the return is filed.

**(I) Scrutiny Assessment u/s 143(3) :** Scrutiny assessment is the assessment of the return filed by the assessee by giving an opportunity to the assessee to substantiate the declared income and expenses and the claims of deductions, losses, exemptions, etc. in the return with the help of evidence. It is managed by the Committee through a single work plan. Specific work is undertaken through the committee and by establishing informal panels (for in-depth activities) or working groups.

The assessing officer gets the opportunity to conduct an inquiry and aims at ascertaining whether the income in the return is correctly shown by the assessee or not. The claims for deductions, exemptions etc. are legally and factually.

If there is any omission, discrepancies, inaccuracies, etc. Then the assessing officer makes an own assessment for the assessee by taking all facts in mind.

#### Type of Cases

- Manual scrutiny cases
- Compulsory scrutiny cases

Manual scrutiny cases as follows :

- Not filing Income Tax Return.
- State lesser income or more tax as compared to earlier year.
- Mismatch in TDS credit between claim and 26AS.
- Non-declaration of exempted income.
- Claiming for large refunds in return of Income.
- Taking double benefit due to the Job change.

Compulsory Scrutiny cases as follows :

- Relating addition in the earlier assessment year of Rs. 10 lakhs/Rs. 10 crore excess on a substantial and recurring question of law or fact which is confirmed in appeal or is pending before an appellate authority may come under compulsory scrutiny.
- CASS (Computer Added Scrutiny Selection) cases are also selected under compulsory cases. All such cases are separately intimated by DGIT (system) to the jurisdictional concerned.
- Where specific and verifiable information pointing on tax evasion is given to Government Department/ Authorities.
- Rejection of the approval u/s 10 (23C) of the Act or withdrawing the approval already is passed by the authority, yet the assessee found claiming tax exemption under the aforesaid provision of the Act.

**(J) Best Judgment Assessment u/s 144 :** The best judgment assessment means evaluation or estimation in the context income tax law of income of the assessee by the assessing officer. In the case of best judgment assessment, the assessing officer will make the assessment based on best reasoning i.e. they will not act dishonestly. The assessee will neither be dishonest in assessment nor have a bitter attitude towards the officer. This is a type of income tax assessment which involves the input of both the assessee and the officer equally.

#### Types

- **Compulsory Assessment:** Assessing officer (AO) finds that there is non-cooperation by the assessee or found to be a defaulter in supplying information to the department.
- **Discretionary/optional assessment:** When AO is dissatisfied with the authenticity/validity of the accounts given by the assessee or where no regular method of accounting has been followed by the assessee.

**Protective Assessment :** This is a type of assessments that focus on those assessments which are made to 'protect' the interest of the revenue.

Though, there is no provision in the income tax act authorizing the levy of income tax on a person other than whom the income tax is payable. It is open to the authorities to make a protective or an alternative assessment if it is not ascertainable who is really liable to pay the tax among a few possible persons.

**(K) Re-Assessment (or) Income Escaping Assessment u/s 147 :** Income Escaping Assessment under section 147 is the assessment which is done by the Assessing Officer if there is a reason for him to believe that income chargeable to tax has escaped assessment for any assessment year. It gives power to him to re-assess or re-compute income, turnover etc. which has escaped assessment.

The objective of carrying out assessment u/s 147 is to bring them under the tax net, any income which has escaped assessment in the original assessment.

**Time Limit :** Under section 147, notice is issued within **9 months** from the end of the financial year in which notice u/s 148 is also served.

**Notice Issued under Section 148 :** Under section 148, notice can be issued within a period of **4 years** from the end of the relevant assessment.

- If escaped income amounts to **Rs. 1,00,000** or more and then notice can be issued for up to 6 years from the end of the relevant assessment year.
- If escaped income is associated with any assets (including financial interest in any entity) i.e. located outside India, and then notice can be issued up to **16 years** from the end of the relevant assessment year.

Notice u/s 148 can be issued by AO only after getting prior approval from the prescribed authority mentioned in section 151.

**(L) Assessment in Case of Search u/s 153A :** Under this type of Income Tax Assessment, the Assessing Officer will :

- Issue notice to such person requires furnishing within such period, as specified in the notice. Clause (b) referred to the return of income of each assessment year falling within **six assessment years** and is verified in prescribed form. Setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;
- Assessor re-assess the total income of **six assessment years** immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made.

**Note :** Section 153A issues a notice for **6 years**, preceding the search not for the year of search and no return is required to be filed (for the year of search) u/s 153A. File only a regular return u/s 139.

#### **Time limit for completion of assessment u/s 153A/153C: [153B]**

##### **Person searched under section 153A**

- 21 months from the end of the financial year this does not include the last authorization for search u/s 132 or requisition u/s 132A.
- Similar time limits shall apply in respect of the year of search also.

##### **Any Other Person 153C**

As provided in above clause (a) or clause (b) or **9 months** from the end of the Financial Year where BOA/documents/assets seized/requisitioned are handed over to the assessing officer (AO), **whatever is latest**.

**(M) Interest for Default in Furnishing Return of Income 234A :** Interest under section 234A is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.

Assessee shall be liable to pay simple interest @1% per month or part of the month for the period commencing from the date immediately following the due date and ending on the following dates :

Circumstances	Ending on the following dates
Where the return is furnished after due date	the date of furnishing of the return
Where no return is furnished	the date of completion of assessment

**(N) Fee for Default in Furnishing Return of Income 234F :** Where a person who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of :

- (I) Rs. 5,000, if the return is furnished on or before the 31st December of the assessment year;
- (II) Rs. 10,000 in any other case

However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable shall not exceed Rs. 1,000

#### Types of ITR Forms

ITR Forms	Type of Income
ITR-1 (SAHAJ)	For Individual Having Income From Salary And Interest
ITR-2	For Individuals And HUFs Not Having Business / Professional Income.
ITR-3	For Individuals And HUFs Being Partners In Firms And Not Carrying Out Business Or Profession Under And Proprietorship.
ITR-4	For Individuals And HUFs Having Income From Proprietary Business or Profession.
ITR-4S (SUGAM)	For Individuals And HUFs Having Income From Presumptive Business For Firms, AOP And BOI.
ITR-5	For Companies Other Than Companies Claiming Exemption U/s 11
ITR-6	For Persons Including Companies Required To Furnish Return Under Section 139(4A) / 139(4B) / 139(4C) / 139(4D). (Not Opting For E-Filing).
ITR-7	Where The Data of Return of ITR 1, ITR 2, ITR 3, ITR 4, ITR 5, ITR 6.
Acknowledgement (ITR V)	Filled Electronically Without Digital signature.

#### Compulsory Quoting of PAN

Quoting of PAN will be compulsory in the following cases:

- (a) Sale or purchase by any person of goods or services of any nature other than immovable properties, shares, motor vehicle in excess of Rs 2 Lacs per transaction, irrespective of mode of payment.
- (b) Hotel/Restaurant bills in excess of Rs 50,000/- paid by cash (increased from Rs 25,000/-)
- (c) Sale or purchase of immovable property exceeding Rs 10 lacs (increased from Rs 5 Lacs)
- (d) Purchase or Sale of unlisted shares Rs 1 Lac (increased from Rs 50000/-)